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United States
Circuit Court of Appeals

For the Ninth Circuit.

Apostles

(In 7 Volumes.)

MATSON NAVIGATION COMPANY, a Corporation,
Appellant,

VS.

UNITED ENGINEERING WORKS, a Corporation,
Appellee,

VOLUME III.

(Pages 705 to 1104, Inclusive.)

Upon Appeal from the United States District Court for the
Northern District of California, First Division

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(Testimony of Stephen Cronin.)

Q. Is 5293 a "Hilonian" number?

A. I don't remember.

Mr. McCLANAHAN.—How about that, Mr. Frank?

Mr. FRANK.—What do you mean, how about it?

Mr. McCLANAHAN.—I want to know. That is not one of the "Hilonian" numbers.

Mr. FRANK.—It speaks for itself.

Mr. McCLANAHAN.—What are you putting it in evidence for?

Mr. FRANK.—I don't know.

Mr. McCLANAHAN.—You don't want to encumber the record with [616—527] something that does not belong to it. There is the shop number 241, and 5293, which is not a "Hilonian" number.

Mr. FRANK.—That is all right; that is a mistake.

Mr. McCLANAHAN.—That card is a mistake?

Mr. FRANK.—Yes; we took that for 5295.

Mr. McCLANAHAN.—What is the exhibit No.?

Mr. FRANK.—Exhibit No. 11.

Mr. McCLANAHAN.—Do you withdraw that?

Mr. FRANK.—Yes.

Mr. McCLANAHAN.—No. 11 is withdrawn.

Q. I show you your exhibit No. 12 where the straight time is charged to 241 and the overtime to 5295. A. Yes, sir.

Q. You make the same explanation of that?

A. Yes, sir.

Q. That you did for the others? A. Yes, sir.

Q. I show you your exhibit No. 13, do you make the same explanation? A. Yes, sir.

(Testimony of Stephen Cronin.)

Q. What, now, is your explanation, Stephen, of why you charged your straight time to the shop number and the overtime to the "Hilonian" number?

A. Well, because I worked on 241. I was there for 241 all day, and that is to wait on all the orders of any of the boats during the day; then I will have to wait on the orders that come in during the day and charge it to 241.

Q. You would not do any more work except under 241?

A. Unless I would be threading bolts or cutting steel, and I would charge it on the job it was used on.

Q. It would show on the card, would it not?

A. Yes, sir.

Q. There was no straight time charged to the "Hilonian" on these cards that I have called your special attention to? [617—528]

A. No, sir; it was all overtime.

Q. Why was it overtime?

A. Because it was work overtime.

Q. You worked straight time on the shop number.

A. That was during the day, and the overtime was in the night on the "Hilonian."

Q. You don't know why that was?

A. Because I had to work overtime on that boat.

Q. Why? A. The boss told me to stay.

Q. The boss told you to work on the shop number during the daytime and the "Hilonian" at night?

A. No, sir. I worked on that number 241 all the time.

Q. When some work came in on the "Hilonian"

(Testimony of Stephen Cronin.)

you put that in at night?

A. I worked on that in the daytime and I had to work on the "Hilonian" at night.

Q. Do you know why you had to work on the "Hilonian" at night?

A. Because I had to wait on orders and cut thread bolts.

Q. In the daytime? A. In night-time.

Q. Why did you have to work on the "Hilonian" number at night? Why not in the daytime?

A. All the orders came in, and I had to wait on all them orders and charge it to 241 during the day. I was there to wait on all the orders that came in.

Q. Would the "Hilonian" orders only come in during the night-time?

A. They came in during the daytime.

Q. You would postpone that work until night?

A. No, sir. I would charge my work in the day to 241, and the overtime that I would work on the "Hilonian" I would charge to the "Hilonian."

Redirect Examination.

Mr. FRANK.—Q. That is, if I understand you right by that, [618—529] when you stayed at night you stayed because the "Hilonian" was the only one that was working at night, so that you charged it to that number; is that correct?

A. Yes, sir.

Q. You were staying for the special purpose of working on the "Hilonian"; is that it?

A. Yes, sir.

(Testimony of Stephen Cronin.)

Q. As I understand you, if the "Hilonian" work came in during the daytime unless it was special work like threading bolts, or something like that, it was not charged to the "Hilonian," but charged to the shop time? A. Yes, sir.

Q. That is the same principle on which you charge the overtime to 5293 on Exhibit 11, is it?

A. Yes, sir.

Mr. McCLANAHAN.—That is objected to on the ground that that exhibit is not a part of the record.

Mr. FRANK.—Then we do not withdraw it. We have a perfect right to show that we treated the "Hilonian" the same as every one else.

Mr. McCLANAHAN.—If it is not withdrawn it is certainly improperly offered.

Mr. FRANK.—It is not improperly offered. I offer it now in answer to the cross-examination in rebuttal to show that no distinction was made against the "Hilonian," but that all numbers that he worked specially on overtime at night were specially charged with that time.

Mr. McCLANAHAN.—I object to the offer on the ground that it is immaterial, irrelevant, incompetent, hearsay, self-serving, and not binding on the respondent. [619—530]

[Testimony of R. H. Roberts, for Libelant.]

R. H. ROBERTS, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Roberts, you were in the employ of the United Engineering Works in September, 1909, were you? A. Yes, sir.

Q. What capacity? A. Storekeeper.

(Testimony of R. H. Roberts.)

Q. As such storekeeper did you keep a record of your time? A. Yes, sir.

Q. How did you keep that record?

A. By time-cards.

Q. I know, but, for instance, the job numbers; how did you keep track of the job numbers?

A. When I was working on a job every vessel that was in there has a number, and I took my time on those numbers.

Q. Where did you get the numbers from?

A. From the office.

Q. How did they come to you, in what form?

A. They come in a printed form, every head of every department gets the number of all the jobs that were working in the yard at the time.

Q. That is a list of numbers covering the different jobs? A. Yes, sir.

Q. And from that you took your job number that you put on your cards? A. Yes, sir.

Q. How did you keep track of the time that you worked on a particular job? A. By my watch.

Q. Now, during the daytime, unless it was a holiday, to what number did you charge up the work in the storeroom? A. 241.

Q. That was what?

A. That was the general number for the storeroom in the yard.

Q. That was a shop number? A. Yes, sir.

Q. Was there any special work sometimes in the storeroom for particular job numbers during the daytime? A. No, sir. [620—531] Individually I

(Testimony of R. H. Roberts.)

never charged anything in the daytime unless it was overtime for any extra work, unless holidays and Sundays.

Q. Holidays and Sundays? A. Yes, sir.

Q. How about threading bolts or anything of that sort, or special work for a particular ship; how would that be charged?

A. That would be charged on the number of the ship.

Q. The number of the ship? A. Yes, sir.

Q. Whether it was daytime or night-time or holidays?

A. Yes, sir. Individually, I did not do those bolts. My boys did them, and they charged the time.

Q. Now, I will show you a card of September 3d and ask you whether or not that is a card that was made out by you at that time in your own handwriting, keeping a record of your time on the different jobs. A. Yes, sir.

Q. It is in your own handwriting? A. Yes, sir.

Q. And kept in the manner you have indicated?

A. Yes, sir.

Q. I see September 2d is changed to September 3d. In whose handwriting is that?

A. I think that is mine too. The card might have been stamped wrong and I changed the date.

Q. Changed the date? A. Yes, sir.

Mr. FRANK.—We offer the card in evidence and ask to have it marked “Roberts No. 1.”

Mr. McCLANAHAN.—We object to that on the ground that it is incompetent, irrelevant and imma-

(Testimony of R. H. Roberts.)

terial, hearsay, self-serving, and not binding on the respondent.

(The card is marked "Roberts, No. 1.")

Mr. FRANK.—Q. Referring to Exhibit No. 1, you knew that to be correct at the time that you handed it in, did you? A. Yes, sir. [621—532]

Q. I will show you a card of September 4th, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards, and whether you knew it to be correct at the time that you handed it in.

A. Yes, sir.

Mr. FRANK.—We ask to have that card marked Roberts No. 2.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked "Roberts No. 2.")

Mr. FRANK.—Q. I show you a card of September 5th, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards, and whether you knew it to be correct at the time that you handed it in. A. Yes, sir.

Q. I notice that you have double time on that card. Do you remember whether that was a holiday or Sunday?

A. It was either a holiday or Sunday.

Q. It was Sunday?

A. Yes, sir, it was Sunday.

Mr. FRANK.—We ask to have that card marked Roberts No. 3.

(Testimony of R. H. Roberts.)

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts No. 3.”)

Mr. FRANK.—Q. Now, I show you a card of September 6th and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in?

A. Yes, sir. There has been a change in one figure there.

Q. Whose change is that?

A. That must be the timekeeper's change; it is not my writing.

Q. It is not your writing? A. No, sir. [622—533]

Q. When the timekeeper made any changes in your card, state whether or not he would consult you with respect to it.

A. Yes, sir, he generally came and told me.

Q. Did he ask you about it? A. Yes, sir.

Q. When he asked you about it what would you do, whether or not before he made the change you would agree with him?

A. Yes, sir, I agreed with him that it was right, I suppose; he is supposed to know the numbers.

Q. You would know the work you had done?

A. Yes, sir.

Mr. FRANK.—We ask to have that card marked Roberts No. 4.

(Testimony of R. H. Roberts.)

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts No. 4.”)

Mr. FRANK.—Q. I will show you a card of September 7th and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir; that is my writing.

Q. You knew the card to be correct when you handed it in? A. Yes, sir.

Mr. FRANK.—We ask to have the card marked Roberts No. 5.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts No. 5.”) [623—534]

Q. Now, I show you a card of September 8th, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in.

A. Yes, sir.

Q. That is in your own handwriting?

A. Yes, sir.

Q. You knew it to be right at the time you passed it in? A. Yes, sir.

Mr. FRANK.—I offer this card in evidence and ask that it be marked Roberts Exhibit No. 6.

Mr. McCLANAHAN.—We make the same objection to it.

(Testimony of R. H. Roberts.)

(The card is marked "Roberts Exhibit No. 6.")

Mr. FRANK.—Q. I now hand you a card of September 9th, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in.

A. Yes, sir; that was a holiday or a Sunday; Sunday, I guess.

Q. No, it was not Sunday. September 9th is Admission Day. A. Oh, yes.

Mr. FRANK.—We offer this card in evidence and ask that it be marked Roberts Exhibit No. 7.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked "Roberts Exhibit No. 7.")

Mr. FRANK.—Q. I now hand you a card of September 10, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir.

Mr. FRANK.—We offer this card in evidence and ask that [624—535] it be marked Roberts Exhibit No. 8.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked "Roberts Exhibit No. 8.")

Mr. FRANK.—Q. I now hand you a card of September 11, and ask you whether or not that is a card made out by you at that time in the manner you have

(Testimony of R. H. Roberts.)

testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir.

Mr. FRANK.—We offer this card in evidence and ask that it be marked Roberts Exhibit No. 9.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Exhibit No. 9.”)

Mr. FRANK.—Q. I now hand you a card of September 12, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir.

Q. I notice the date on that card is changed; in whose handwriting is that change?

A. It is mine; I put the proper date on it.

Mr. FRANK.—We offer this card in evidence and ask that it be marked Roberts Exhibit No. 10.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Exhibit No. 10.”)

Mr. FRANK.—Q. I now hand you a card of date, September 13, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir. [625—536]

Mr. FRANK.—We offer this card in evidence and ask that it be marked Roberts Exhibit No. 11.

(Testimony of R. H. Roberts.)

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Exhibit No. 11.”)

Mr. FRANK.—Q. I now hand you a card of date, September 14, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir.

Mr. FRANK.—We offer this card in evidence and ask that it be marked Roberts Exhibit No. 12.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Exhibit No. 12.”)

Mr. FRANK.—Q. I now hand you a card under date of September 15, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir.

Mr. FRANK.—We offer this card in evidence and ask that it be marked Roberts Exhibit No. 13.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Exhibit No. 13.”)

Mr. FRANK.—Q. I now hand you a card under date of September 16, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir.

(Testimony of R. H. Roberts.)

Q. On that card I notice that erasure and the figure "2" put in there; in whose handwriting is that figure 2?

A. I suppose that is mine, sir. They intended to have us [626—537] stay there an hour but we stayed another hour, making two hours.

Mr. FRANK.—We offer this card in evidence and ask to have it marked Roberts Exhibit No. 14.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked "Roberts Exhibit No. 14.")

Mr. FRANK.—Q. I now show you a card under date of September 18, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir.

Q. Explain the "2" and the figure "1" under the number of hours? A. That is overtime.

Q. That is not in your handwriting, is it?

A. The "2" is not. I evidently omitted to put anything there at all and it came before the time-keeper and he put the number down.

Q. How would he put those numbers down?

A. He would come to me and ask me how long I worked.

Q. And the "2" would indicate the number of hours you worked and the "1" would be the overtime? A. Yes, sir.

Q. He always put the overtime on himself?

A. Yes, sir.

(Testimony of R. H. Roberts.)

Mr. FRANK.—We offer this card in evidence and ask that it be marked Roberts Exhibit No. 15.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Exhibit No. 15.”)

Mr. FRANK.—Q. I now show you a card under date of September 19th and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir. [627—538]

Mr. FRANK.—We offer this card in evidence and ask to have it marked Roberts Exhibit No. 16.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Exhibit No. 16.”)

Mr. FRANK.—Q. I now show you a card under date of September 20, and ask you whether or not that is a card made out by you at that time in the manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir.

Mr. FRANK.—We offer this card in evidence and ask that it be marked Roberts Exhibit No. 17.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Exhibit No. 17.”)

Mr. FRANK.—Q. I now show you a card under date of September 21, and ask you whether or not that is a card made out by you at that time in the

(Testimony of R. H. Roberts.)

manner you have testified to that you made out your cards and whether you knew it to be correct at the time that you handed it in. A. Yes, sir.

Mr. FRANK.—We offer this card in evidence and ask to have it marked Roberts Exhibit No. 18.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Exhibit No. 18.”)

Mr. FRANK.—I now offer clock cards under date of September 11 and September 25, respectively, and ask to have them marked Roberts Exhibits 19 and 20.

(The cards are marked “Roberts Exhibit No. 19” and “Roberts Exhibit No. 20,” respectively.)

Q. Now, Mr. Roberts, you also issued material used on different ships from your storeroom?

A. Yes, sir.

Q. I show you a yellow slip headed “cartage and stock order [628—539] card” under date of September 7, 1909, and ask you what that is.

A. That is a valve I sent from our shop to Mr. Speed to buy for me in San Francisco for the steamer “Hilonian.”

Q. That is your order for it?

A. No, sir, this is a charge for it. The order goes through the order-book.

Q. That is the charge that you make; is that your handwriting? A. Yes, sir.

Q. And your signature to it?

A. Yes, sir. We have an order-book there in triplicate form. One stays in the book, one goes to the

(Testimony of R. H. Roberts.)

party it is bought from and the other goes to the office. When the valve comes from San Francisco, sent by Mr. Speed, we tear this out of the book and copy it on this tag; this goes in our office and the other tag that is in the triplicate book goes to the San Francisco office.

Q. This card indicates that you received that material and issued it to the "Hilonian" does it?

A. Yes, sir. I don't write that card until I receive the valve from San Francisco.

Q. And I notice job number 5325 there; that is the job number for which it is ordered?

A. Yes, and that is the number that is in the book, the triplicate order-book. (Indicating.)

Q. That is B732? A. Yes, sir.

Mr. FRANK.—We offer this in evidence and ask that it be marked Roberts stock card No. 1.

Mr. McCLANAHAN.—Mr. Frank, I would like to ask a question here.

Mr. FRANK.—All right.

Mr. McCLANAHAN.—Q. Mr. Roberts, you simply know that you received the article shown by the card? A. Yes, sir.

Q. You don't know what became of it after you received it?

A. I gave it to the man who told me to order it, the man who [629—540] was working on the job.

Q. But you don't know that it went in the ship, do you?

A. No, sir, I could not say that it went in the ship further than I know that the man was working on

(Testimony of R. H. Roberts.)

the ship who ordered me to buy it for him.

Mr. FRANK.—Q. That is, the man was working on the ship and you delivered it to him to take to the ship? A. Yes, sir.

Mr. McCLANAHAN.—We make the same objection to this card.

(The card is marked “Roberts Stock Card No. 1.”)

Mr. FRANK.—Q. I now show you another order of the same date and ask you what that is.

A. That is the same.

Q. That went through the same process?

A. Yes, sir.

Q. And that is in your handwriting?

A. Yes, sir.

Q. And that is your signature? A. Yes, sir.

Mr. FRANK.—I offer this in evidence and ask that it be marked Roberts Stock Card No. 2.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 2.”)

Mr. FRANK.—Q. Now, I show you another stock card, under date of September 2, and ask you what that is.

A. That is the same. I bought that from Mr. Hanlon on our side. The order did not come over to this side.

Q. At any rate, you received it and delivered it in the same manner as you have heretofore testified?

A. Yes, sir.

Mr. FRANK.—I offer this in evidence and ask

(Testimony of R. H. Roberts.)

that it be marked Roberts Stock Card No. 3.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. No. 3.”)

Mr. McCLANAHAN.—Mr. Frank, referring to card No. 2, which [630—541] is for two one and one-half combination Indian oil-stones, I do not believe you charged us with that; are you not encumbering the record by putting it in?

Mr. FRANK.—Well, I don't know, Mr. McClanahan. We will see when we come to argue the case. I have no doubt there is a great deal that you were not charged with that you ought to have been charged with.

Mr. McCLANAHAN.—And a great deal that you charged us with that you ought not to have charged us with.

Mr. FRANK.—Q. I now show you a card under date of August 27, 1909, and ask you what that is.

A. That is the same.

Q. The same as before? A. Yes, sir.

Q. You mean that it went through the same process?

A. Yes, sir. It went through Mr. Speed, in this city. I ordered it from the other side. I issued it in Oakland.

Q. And this is your memorandum of issuing it in each case?

A. Of receiving it; I don't write the order until I receive it from San Francisco.

(Testimony of R. H. Roberts.)

Q. And then you issue it out under that order?

A. Yes, sir.

Mr. FRANK.—I offer this card in evidence and ask that it be marked Roberts Stock Card No. 4.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 4.”)

Mr. FRANK.—Q. I now show you a stock card of August 27, and ask you what that is.

A. That is the same.

Mr. FRANK.—I offer this stock card in evidence and ask that it be marked Roberts Stock Card No. 5.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 5.”)

Mr. FRANK.—Q. I now show you a stock card of August 26, [631—542] and ask you what that is.

A. That is the same.

Mr. FRANK.—I offer this in evidence and ask that it be marked Roberts Stock Card No. 6.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 6.”)

Mr. FRANK.—Q. I now show you a stock card under date of August 26, and ask you what that is.

A. That is Mr. Speed's handwriting.

Q. Do you remember about the order?

A. No, I cannot say that I do.

Q. It has no distinguishing mark of yours on it?

A. No, sir.

(Testimony of R. H. Roberts.)

Q. Then I won't offer that. Now, I show you a stock card under date of September 8, and ask what that is.

A. Let me see the other one please—I thought that might be the same but it is not. Yes, this one you have last shown me is mine.

Q. And issued in the same manner as you have already testified? A. Yes, sir.

Mr. FRANK.—I offer this card in evidence and ask that it be marked Roberts Stock Card No. 7.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked "Roberts Stock Card No. 7.")

Mr. FRANK.—Q. I now show you a stock card under date of September 8, and ask you what that is.

A. Yes, that went through Mr. Hanlon.

Q. And issued by you in the same manner?

A. Yes, sir. This was issued to Mr. Hanlon. He works in our yard.

Q. This was issued by you in the same manner, was it? A. Yes, sir, just the same. [632—543]

Mr. FRANK.—I offer this card in evidence and ask that it be marked Roberts Stock Card No. 8.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked "Roberts Stock Card No. 8.")

Mr. FRANK.—Q. I now show you a stock card under date of September 10 and ask you what that is.

A. Yes, that is mine.

Mr. FRANK.—I offer this card in evidence and

(Testimony of R. H. Roberts.)

ask that it be marked Roberts Stock Card No. 9.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 9.”)

Mr. FRANK.—Q. I now show you a stock card under date of September 11, and ask you what that is. A. That is mine.

Mr. FRANK.—I offer this in evidence and ask that it be marked Roberts Stock Card No. 10.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 10.”)

Mr. FRANK.—Q. I now show you a stock card under date of September 13, and ask you what that is.

A. That is mine.

Q. That is in your own handwriting?

A. Yes, sir.

Q. But it does not bear your signature?

A. No, sir; I must have omitted it. There is the number of the order it was issued on, right there (pointing).

Q. You recognize that as one issued to you?

A. Yes, sir.

Mr. FRANK.—I offer this card in evidence and ask that it be marked Roberts Stock Card No. 11.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 11.”)

(Testimony of R. H. Roberts.)

Mr. FRANK.—Q. I now show you a stock card under date of [633—544] September 16th and ask you what that is. A. Yes, sir; that is mine.

Mr. FRANK.—I offer this card in evidence and ask that it be marked Roberts Stock Card No. 12.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 12.”)

Mr. FRANK.—Q. I now show you a stock card under date of September 16, and ask you what that is.

A. Yes, sir; that is mine.

Mr. FRANK.—I offer that card in evidence and ask that it be marked Roberts Stock Card No. 13.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 13.”)

Mr. FRANK.—Q. I now show you a stock card of September 20, and ask you what that is.

A. Yes, sir, that is mine.

Mr. FRANK.—I offer that in evidence and ask that it be marked Roberts Stock Card No. 14.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 14.”)

Mr. FRANK.—Q. I now show you a stock card under date of September 21, and ask you what that is.

A. That is mine.

Mr. FRANK.—I offer this card in evidence and

(Testimony of R. H. Roberts.)

ask that it be marked Roberts Stock Card No. 15.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 15.”)

(The card is marked “Roberts stock card No. 15.”)

Mr. FRANK.—Q. I now show you a stock card under date of September 22, and ask you what that is.

A. Yes, sir, that is mine. [634—545]

Mr. FRANK.—I offer this in evidence and ask to have it marked Roberts Stock Card No. 16.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 16.”)

Mr. FRANK.—Q. I now show you a stock card under date of August 28, and ask you what that is.

A. Yes, sir, that is mine.

Mr. FRANK.—I offer this card in evidence and ask that it be marked Roberts Stock Card No. 17.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked “Roberts Stock Card No. 17.”)

Mr. FRANK.—Q. I now show you a stock card under date of September 8, and ask you what that is.

A. Yes, sir, that is mine.

Mr. FRANK.—I offer this card in evidence and ask that it be marked Roberts Stock Card No. 18.

Mr. McCLANAHAN.—We make the same objection to it.

(Testimony of R. H. Roberts.)

(The card is marked "Roberts Stock Card No. 18.")

Mr. FRANK.—Q. I now show you a stock card under date of September 11, and ask you what that is.

A. Yes, sir, that is mine.

Mr. FRANK.—I offer this card in evidence and ask that it be marked Roberts Stock Card No. 19.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked "Roberts Stock Card No. 19.")

Mr. FRANK.—Q. I now show you a stock card under date of September 21 and ask you what that is.

A. Yes, sir, that is mine.

Mr. FRANK.—I offer this card in evidence and ask that it be marked Roberts Stock Card No. 20.

[635—546]

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked "Roberts Stock Card No. 20.")

Mr. FRANK.—Q. I now show you a stock card under date of September 11, and ask you what that is.

A. Yes, sir, that is mine.

Mr. FRANK.—I offer this stock card in evidence and ask that it be marked Roberts Stock Card No. 21.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked "Roberts Stock Card No. 21.")

Mr. FRANK.—Q. Now, I show you a stock card

(Testimony of R. H. Roberts.)

marked "A2266" and ask you what that is.

A. Those lamps were given out by the watchman in the night-time.

Q. Is that your signature?

A. That is my signature, per watchman, Roberts.

Q. How do you verify that?

A. I see the watchman in the morning and he says he wrote these cards and delivered the lights to the ship in the night.

Q. Who was the watchman?

A. A man called Campbell.

Mr. McCLANAHAN.—I object to the last statement of the witness and ask that it be stricken out upon the ground that it is hearsay.

Mr. FRANK.—What statement, that the man was called Campbell?

Mr. McCLANAHAN.—No, what the watchman told him.

The WITNESS.—The watchman gave the stuff out himself, and wrote down what he gave out.

Mr. FRANK.—That is all right, Mr. Roberts. We will get Mr. Campbell; there will be no trouble about that.

Mr. McCLANAHAN.—Do you offer that card?

Mr. FRANK.—I offer it, yes. I will have other testimony [636—547] on it. I offer it now so that we will keep the record straight.

Mr. McCLANAHAN.—Do you want it marked?

Mr. FRANK.—No. It is identified as "A2266"; we followed the same course with Adamson. We can save a great deal of time that way.

(Testimony of R. H. Roberts.)

Q. I show you now stock card "A2267," and ask you what that is.

A. That was written by my boy, Stephen Cronin. He was in charge at the time, and then I signed it. That was given out in the night-time.

Q. I now show you a stock card marked "A2274" and ask you what that is?

A. That was issued in the night by the watchman.

Q. I now show you a stock card marked "A2297" and ask you what that is.

A. The same thing, issued by the watchman in the night-time.

Q. I now show you a stock card marked "A2304" and ask you what that is.

A. That is in the boy's writing; he issued that in the night-time.

Q. Are you sure that is the boy's writing?

A. Yes, I am sure of it.

Q. It is not your's? A. No, sir.

Q. I now show you a stock card marked "A2343" and ask you what that is. A. That is mine.

Q. Issued by you in the same manner you have testified to concerning the other stock cards?

A. Yes, sir.

Mr. FRANK.—I offer this card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked "A2359" and ask you what that is.

A. That is my writing.

(Testimony of R. H. Roberts.)

Q. It was issued by you in the same manner?
[637—548]

Mr. FRANK.—We offer that stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A2371” and ask you what that is.

A. That is my writing.

Q. Issued in the same way? A. Yes, sir.

Mr. FRANK.—I offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A2380” and ask you what that is.

A. That is my writing.

Q. Issued in the same way? A. Yes, sir.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A2421” and ask you what that is.

A. That is mine.

Q. Issued in the same way? A. Yes, sir.

Q. Whenever you say “that is mine” you mean issued in the same way? A. Yes, sir.

Mr. FRANK.—I offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card

(Testimony of R. H. Roberts.)

marked "A2427" and ask you what that is.

A. That is mine.

Mr. FRANK.—I offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a *stock marked* "A2460" and ask you what that is.

A. That is mine.

Mr. FRANK.—I offer this card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked "A2462" and ask you what that is.

A. That is mine. [638—549]

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked "A2463" and ask you what that is.

A. That is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked "A2467" and ask you what that is.

A. That is mine.

Mr. FRANK.—We offer this stock card in evidence.

(Testimony of R. H. Roberts.)

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A2476” and ask you what that is.

A. That is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A2498” and ask you what that is.

A. That is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A2710” and I read to you these items: “4 candles on quadrant; 8 bolts; 3 one-quarter by 8 hex-nuts; 2 bolts, three-quarters by 8½ hex-nuts, under number 5398.” Those are in your handwriting, are they? A. Yes, sir.

Q. Issued by you? A. Yes, sir.

Q. And the item “10 lbs. glazier putty, No. 5295” is in the boy’s handwriting? A. Yes, sir.

Mr. FRANK.—We offer this card in evidence as to the part that the witness identifies.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A2711” and ask you what that is.

(Testimony of R. H. Roberts.)

A. That is mine. [639—550]

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A2713” and ask you what that is.

A. That is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A2715” and ask you what that is.

A. That is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A2719; 28 feet of 3-16 by 8 template wood; that item is in your handwriting? A. Yes, sir.

Q. The other item “4 candles” is in the boy’s handwriting? A. Yes, sir.

Mr. FRANK.—We offer this stock card in evidence as the part identified by the witness.

Mr. McCLANAHAN.—We make the same objection to it.

(A recess was here taken until 2 P. M.) [640—551]

(Testimony of R. H. Roberts.)

AFTERNOON SESSION.

R. H. ROBERTS, direct examination resumed.

Mr. McCLANAHAN.—Mr. Frank, I have a witness who I have held over one trip on the “Hilonian” at the expense of \$150 a month. As you have far exceeded your time now allowed by the original order, I think it right that you should give me some intimation of how much longer you are going to consume in putting in your case.

Mr. FRANK.—I am putting in my case as fast as I can. I wanted you to go with me over to the works and it would have gone very much easier and quicker. As it is I have got to bring these men over in parcels from the works here. I cannot bring them all over at once, or the whole works would have to be shut down. I am proceeding just as quickly as I can. How long it will take I cannot tell. It does no look to me as though it ought to take very much longer. In the way we are proceeding I have got to take every one of these cards and introduce them in evidence.

Mr. McCLANAHAN.—Do you think it will take a week longer?

Mr. FRANK.—Yes, I think it will. If you want to put your man on out of order I have no objection to your doing it.

Mr. McCLANAHAN.—We cannot very well do that.

Mr. FRANK.—Q. I now show you a stock card marked “A3202” and ask you what that is.

A. Yes, that is the same.

(Testimony of R. H. Roberts.)

Mr. FRANK.—We offer the stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A3211” and ask you what that is. [641—552] A. Yes, that is mine.

Mr. FRANK.—We offer the stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A3212” and ask you what that is.

A. Yes, that is mine.

Mr. FRANK.—We offer the stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A3248” and ask you what that is.

A. Yes, that is mine.

Mr. FRANK.—We offer the stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A3260” and ask you what that is.

A. Yes, that is mine.

Mr. FRANK.—We offer the stock card in evidence.

(Testimony of R. H. Roberts.)

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A3244” and ask you what that is.

A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A3236” and ask you what that is.

A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A3268” [642—553] and ask you what that is. A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A3271” and ask you what that is.

A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card

(Testimony of R. H. Roberts.)

marked "A3274" and ask you what that is.

A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked "A3285" and ask you what that is.

A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked "A6402" and ask you what that is.

A. The cement on this order, there are 10 sacks of cement here and 53 $\frac{1}{4}$ by 2 bolts. Those are not in my handwriting. The 10 sacks of cement are mine.

Q. The 10 sacks of Portland cement, 1040 pounds?

A. Yes, sir.

Q. That you delivered? A. Yes, sir.

Q. In the same manner that you did all the rest?

[643—554]

A. Yes, sir.

Q. I now show you a stock card marked "A6406" and ask you what that is. A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card

(Testimony of R. H. Roberts.)

marked "A6410" and ask you what that is?

A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked "A6431" and ask you what that is?

A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked "A6473" and ask you what that is.

A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked "A6484" and ask you what that is?

A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked "A6489" and ask you what that is? [644—555]

A. Yes, that is mine.

(Testimony of R. H. Roberts.)

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A6492” and ask you what that is.

A. Yes, that is mine.

Mr. FRANK.—We offer this stock card in evidence.

Mr. McCLANAHAN.—We make the same objection to it.

Mr. FRANK.—Q. I now show you a stock card marked “A6494” and ask you what that is.

A. That is not my writing.

Mr. FRANK.—You can cross-examine. [645—556]

Mr. McCLANAHAN.—I can hardly cross-examine this witness on these slips because they are not segregated from your files.

Mr. FRANK.—They are all regularly numbered. You will find every one of them there under those numbers.

Mr. McCLANAHAN.—Do you intend to put these all in evidence that you have not put in?

Mr. FRANK.—Yes, afterwards.

Mr. McCLANAHAN.—The slips that were introduced by this man went in without my seeing them. Of necessity I admit, but they should be segregated now so that I can cross-examine.

Mr. FRANK.—I can segregate them if you want

(Testimony of R. H. Roberts.)

me to, but you can turn to them. Here is the index to every number.

Mr. McCLANAHAN.—You had a good deal of difficulty in segregating them, I will do the best I can.

Mr. FRANK.—You can segregate them if you want to. There will be no trouble.

Cross-examination.

Mr. McCLANAHAN.—Q. How long have you been with the works, Mr. Roberts?

A. 8 or 10 years.

Q. You are still with them, are you?

A. Yes, sir.

Q. Still storekeeper? A. Yes, sir.

Q. Is your system of time-cards the same as it was two years ago? A. Yes, sir.

Q. Is your system of stock slips just the same?

A. Just about the same, yes.

Q. Why do you qualify it? Is it not exactly the same?

A. I think they are. The system of time is a little different. They have introduced the clock system since that time. They did [646—557] not have it in the first place.

Q. What do you mean by the clock system?

A. Punching your time when you come in and go out.

Q. That you had two years ago?

A. Two years ago we did. During the time I have been there I mean.

Q. I am speaking of any difference, if there is any, between the time of to-day and two years ago?

(Testimony of R. H. Roberts.)

A. No, sir, I don't think there is.

Q. Now, what is your duty in the storeroom?

A. I give orders for everything I require there in the storeroom and serve it out and see that it is charged up to the different jobs.

Q. What is the storeroom?

A. The storeroom is the store where we keep all the material that is used in the works.

Q. All the material that is used in the works is under your supervision?

A. Mostly all. There are plates, etc., out in the yard. In the way of bolts and packing, valves, and things of that kind, they are in the storeroom.

Q. And you are the storekeeper? A. Yes, sir.

Q. And your assistant two years ago was a boy named Stephen Cronin? A. Yes, sir, one of them.

Q. Did you have any more than one assistant?

A. Yes, sir; I had two.

Q. At that time? A. Yes, sir.

Q. Stephen Cronin has said there was but one; is he mistaken?

A. I think he is. Stephen Cronin was the boy that I had most confidence in, and when there was anything to do I kept him there in the night-time to do it.

Q. Let me get back to the number of assistants that you had; he says that you and he in September, 1909, were the only ones in the storeroom; is that correct?
[647—558]

A. Possibly that may be; I am not quite sure about that.

(Testimony of R. H. Roberts.)

Q. Can you think of the name of the other man, if there was another man there or boy?

A. No, I cannot be sure. I had several of them, sometimes two or three, in the month.

Q. If his statement is that there was but yourself and himself, you would not want to contradict that?

A. No, sir.

Q. I understand that your knowledge of the job numbers comes from the office of the works?

A. Yes, sir.

Q. It comes to you on a written sheet of paper, the number? A. Yes, sir.

Q. And opposite the number is the material required of your department?

A. No, sir; opposite the number is the work on the ship to be done.

Q. You are not interested in the work in your department, are you?

A. That is the way the slips comes out.

Q. They do? A. Yes, sir.

Q. How do you get your order for the material required that is in your department?

A. By these tags.

Q. These tags that have been introduced, the larger part, if not all of them have been in your handwriting? A. No, sir, very few of them.

Q. Very few in your handwriting?

A. Very few in comparison with what has gone out of the storeroom.

Q. I am speaking of those that have been introduced in evidence, they have been in your handwriting?

(Testimony of R. H. Roberts.)

ing as I understood it.

A. That is for material mostly that we have ordered from San Francisco.

Q. And not from material that comes out of the shop or storeroom? A. Both, in fact. [648—559]

Q. Where do you get your information as to what is wanted that enables you to make out this slip in your own handwriting and charge the material to a certain job number?

A. The man that is in charge of the job comes in there; as a general rule, my head man in the yard—for instance, a valve is required to be bought in San Francisco, and he says, “Mr. Williamson says for you to order a valve for the steamer ‘Hilonian.’ ” I says, “What is the number of your job?” “The number of the job is so and so.” I order the valve through Mr. Speed and deliver it to the man who gave me the order for it when it gets there.

Q. Suppose it is something that is in your store-room that is wanted; how do you get that order?

A. He writes me an order like that.

Q. All the cards that you have introduced here in evidence, all these stock cards are for material ordered by you from the city? A. Not all of them.

Q. I want to know how you get the information for those cards containing the material that is in the storeroom? A. That I write myself.

Q. That you write yourself?

A. By men coming there in the night-time to look for material that cannot find the foreman to write

(Testimony of R. H. Roberts.)

one for them. I am authorized by Mr. Christy to use my judgment to write that card for the man instead of delaying the work and wait for the foreman to come in to write the card for them.

Q. Say that a man wanted something out of the storeroom, he can come to you under orders from Mr. Christy and get that material?

A. Yes, sir; that is, providing he cannot find his foreman.

Q. Providing he cannot find his foreman?

A. Yes, sir, to write in [649—560] that order.

Q. You take his word for it that he cannot find his foreman, do you not?

A. Yes, sir. That does not happen very often. It is very seldom that a man has to come under those conditions, only possibly in the evening after a day's work is done.

Q. The other stock cards that are handled by you are cards made out by foremen themselves?

A. Yes, sir, or a man in charge of the job.

Q. Or a man in charge of the particular job?

A. Yes, sir.

Q. Your work is confined entirely to the storeroom? A. Yes, sir.

Q. Do you have occasion to leave the storeroom in prosecuting your work? A. Sometimes, yes.

Q. Are you held responsible for the stores that are under your custody? A. Yes, sir.

Q. On your time-cards which have been introduced here in evidence I find No. 241. What is that?

(Testimony of R. H. Roberts.)

A. That is the general number for the storeroom, at the expense of the storeroom, charged to the job.

Q. Charged to what?

A. My time is charged to the storeroom under that number.

Q. You spoke of it being charged to a job; what do you mean by that?

A. I meant that the job number for the storeroom is No. 241.

Q. What does that mean?

A. That means whatever I am doing in the storeroom all day is charged to 241.

Q. You do not know who ultimately pays for the work done that you have charged to 241, whether it is the works itself, or some private outside customer?

A. The works itself pays for 241. [650—561]

Q. That is the shop? A. Sure.

Q. Not any particular number? A. No, sir.

Q. What does that work done under 241 consist of?

A. Everything I do there during the day.

Q. Everything that you do during the day?

A. Yes, sir, writing orders. Sometimes when we are rushed I help the boys to serve out the orders that men bring in there on their yellow tags, etc., receive material that comes out of the launch from the city. I write the orders for everything that is bought in the city. I go down to the launch when she arrives there and check it up just about quitting time.

Q. So that all your straight time is charged to the shop on 241? A. Yes, sir.

(Testimony of R. H. Roberts.)

Q. And not to any particular job? A. No, sir.

Q. With that statement in mind, Mr. Roberts, I hand you Exhibit 4 on which is charged 9 hours of work to 5295, and ask you how you explain that?

A. That was a holiday, and the only job that was running there during my presence in the storeroom.

Q. So that on holidays then your presence in the storeroom is not charged to the shop number?

A. No, sir.

Q. But is charged to a particular job that requires your presence there? A. Yes, sir.

Q. That is true, is it, of Sundays? A. Yes, sir.

Q. When you were absent from the storeroom Stephen Cronin had charge in September, 1909, did he? A. At the night-time?

Q. At any time?

A. Yes, sir, he was in there.

Q. He had charge?

A. Well, he was the only boy that was there. He allowed that he was the only one that was there.

[651—562]

Q. The custody of the storeroom was turned over to him, was it not, when you were not there?

A. Yes, sir.

Q. And he during your absence would honor these particular orders that were brought to him at that time? A. Yes, sir.

Q. And had authority to do so? A. Yes, sir.

Q. It is quite possible, is it not, Mr. Roberts, that during the daytime when you were working your work was performed for some special job number?

(Testimony of R. H. Roberts.)

A. Yes, sir.

Q. For instance, if we assume that the "Hilonian" job number is 5295, it is quite possible that during the day although your card shows a charge to 241, the shop number, that, as a matter of fact you did work during the day for 5295, although it is not charged to 5295?

A. No, sir, I would not charge it. It would not go in in any other way than the way I put it down on the card.

Q. I assume you have not charged it, but you did work for 5295 during the day.

A. In giving out stores?

Q. Yes, just as you do at night? A. Yes, sir.

Q. Only the difference being in the daytime you charge it to the shop and at night you charge it to the particular job? A. Yes, sir.

Q. In other words, all overtime was charged to a particular job? A. Yes, sir.

Q. And not to the shop? A. Yes, sir.

Q. You have not any recollection now of any of the work that you did at that time, any special work? A. No, sir.

Q. I understand that you simply received the order and saw that it had the proper number or a number, and you delivered the goods under that order to the man inquiring for it?

A. Yes, sir. [652—563]

Q. And there your duty ended? A. Yes, sir.

Q. In other words, you do not know what the man did with the goods?

(Testimony of R. H. Roberts.)

A. No, sir; I did not follow the man down to the ship to find out if he put it there or not. I know the man was working on the job and the number the material was used under was the right number.

Q. You knew it was the right number for the particular job because the slip said so? A. Yes, sir.

Q. And you knew it in no other way?

A. Yes, sir.

Q. And you knew that the man who got the material was supposed to use it on that number?

A. Yes, sir.

Q. And that is all? A. Yes, sir.

Q. You did not know that he did use it?

A. No, sir; I could not swear that he did. I do not see what else he could do with it.

Q. I show you stock card No. 20 that you have identified as being in your handwriting.

A. Yes, sir.

Q. You notice that that says "11 pieces of iron were delivered aboard of the 'Hilonian' ordered by Putzar." A. Yes, sir.

Q. How do you know it was delivered aboard of the "Hilonian"?

A. I don't know exactly now how I know, but it was ordered by Mr. Putzar and it was delivered aboard of her; I am sure it was delivered there, but I could not swear now whether it went aboard.

Q. Do you remember the piece of iron at all?

A. No, sir, I could not say that I do.

Q. Would that be the crude iron without any work on it in the shop?

(Testimony of R. H. Roberts.)

A. I think it would be. For a trolley rod there was not much work to be done on it.

Q. For a trolley rod there was not much work to be done on it? [653—564] A. Yes, sir.

Q. If there was any work done on it it was done after it left your store?

A. That piece of iron went out of the yard, not out of my storeroom. I did not keep that kind of iron in my storeroom.

Q. It was delivered by you out of the yard, was it, to somebody? A. Yes, sir.

Q. Suppose I should tell you Mr. Roberts that on that day under that job numbers 3 hours of work was done on that piece of iron in the shop—

Mr. FRANK.—I object to your stating that to the witness, because you are assuming a fact that is not in evidence here.

Mr. McCLANAHAN.—I am assuming a fact that is in evidence.

Mr. FRANK.—I think you are mistaken. There may be work done in the shop on trolley rods, but it does not follow that it was done on that piece of iron.

Mr. McCLANAHAN.—Q. Can you answer that question, Mr. Roberts? A. No, sir.

Q. Then I will ask you another. There is in evidence in this case the time-card of a man named R. Adamson dated September 21st, showing that 3 hours of work was done on a trolley rail under No. 5398. Is that not the same trolley rail?

A. Yes, sir, I think it is. This was ordered from

(Testimony of R. H. Roberts.)

Mr. Speed from the city. Mr. Putzar ordered it to be ordered for that job.

Q. Where did it go to after it left your hands?

A. Into the machine-shop.

Q. It did not go on board of the "Hilonian" then as you have written down there?

A. There must have been something went aboard the "Hilonian" or I would not have put it down there. [654—565] It is no object of mine to put it aboard the "Hilonian" if it was not put there. Possibly there was some measurement or something to be got out of that rod before it could go into the machine-shop to do the work on it. It weighed 56 pounds, and it was ordered from Mr. Speed for that job, and Mr. Putzar ordered it.

Q. I was trying to point out to you that perhaps there is a mistake in your saying it was delivered aboard of the "Hilonian."

A. No, sir, I don't think there was or else I would not have put it on that card.

Q. Your exhibit No. 2 of the stock cards is for 21½ combination Indian oilstones. What are they for?

A. Sharpening tools, I guess. They were bought from Mr. Speed in the city. There is the order number they were ordered on (pointing). I neglected to put Mr. Speed's name on that, but that is my order that went to San Francisco to buy them.

Q. You are pointing to B737. A. Yes, sir.

Q. What is this number up here, 5325?

A. That is the number of the job.

Q. Is that the number that is charged with the

(Testimony of R. H. Roberts.)

material shown by the card? A. Yes, sir.

Q. Are you familiar with Indian oilstones?

A. No, sir.

Q. You don't know what they are?

A. Yes, sir, I know what they are.

Q. It is simply a common ordinary oilstone to sharpen a tool on? A. Yes, sir.

Q. When you need oilstones to sharpen tools you order them from the city, do you, as a rule?

A. Yes, sir, always.

Q. Why do you charge them to any particular job?

A. Because the tools in that case had to be sharpened for that job. [655—566]

Q. When the tools are sharpened and the job is finished what becomes of the oilstones? It still remains in the shop? A. If they are not used up.

Q. It still remains in the shop?

A. I suppose so.

Q. That is equally true of other material that is not used up with the job, it remains in the shop?

A. I don't know anything about that, sir.

Q. On your exhibit No. 5 there are 5 pounds of black blasting powder; do you know what that is used for? A. Yes, sir.

Q. What?

A. On a machine that they drive out coupling bolts out of a shaft.

Q. Used in a cannon, was it not?

A. A kind of a cannon.

Q. The cannon belongs to the shop, does it not?

(Testimony of R. H. Roberts.)

A. Yes, sir.

Q. On your exhibit No. 6 you have 300 feet of No. 18 marine portable cable charged to 5295. Do you wish to see it? A. Yes, sir.

Q. Do you know what that was used for (Handling)?

A. Yes, sir; to give lights on the job. It was bought from the Western Electric.

Q. To give lights on the job? A. Yes, sir.

Q. That is, this cable was strung throughout the ship as the support for electric lights?

A. I guess so. It looks like it.

Q. Of course you do not know that it was done.

A. It was ordered for that purpose; that is all I know about it.

Q. But you do not know that it was strung on the ship?

Mr. FRANK.—What are you asking the witness for if you know he does not know? You put in a lot of immaterial stuff in just that way. [656—567]

Mr. McCLANAHAN.—If it is immaterial it will not hurt any.

Mr. FRANK.—If you do not think it will hurt any, well and good.

Mr. McCLANAHAN.—The case has a good deal of immaterial stuff in in my judgment. We may differ in our opinion as to what is immaterial and what is not.

Mr. FRANK.—Very well.

Mr. McCLANAHAN.—Q. On your exhibit No. 11 you have 250 feet of No. 14 twin conducting rub-

(Testimony of R. H. Roberts.)

ber-covered wire. Do you know what that is for?

A. For lights, I guess.

Q. The same thing as the cable? A. Yes, sir.

Redirect Examination.

Mr. FRANK.—Q. Mr. Roberts, when you say that the oilstones were used for sharpening tools on I presume you did not go down to see what they were used for, did you?

A. No, sir. But I remember the man stating that they were something in connection with the bearings that they had tools to sharpen.

Q. Trueing up the crank-pins? A. Yes, sir.

Q. That is all you know about it?

A. Yes, sir, that is all.

Q. Now, with reference to the Exhibit No. 20, the trolley iron going on board of the "Hilonian," I understood you to say it must have gone on board or you would not have put it down there?

A. No, sir.

Q. In other words, you knew it was right at the time?

A. Yes, sir. I ordered it from Mr. Speed for that job. It came from San Francisco to do that same particular job, and Mr. Putzar, the chief engineer, was the man that ordered it.

Q. Do you remember a man by the name of Ahrens? A. Yes, sir.

Q. Do you know whether or not he was in the storeroom some time in [657—568] your absence.

A. Yes, sir, I know he was.

Q. What was done in the storeroom besides hand-

(Testimony of R. H. Roberts.)

ing out material? Did you have any machine in there for any purpose?

A. Yes, sir. We had a machine in there for threading bolts.

Q. You did the work of threading bolts in the storeroom? A. Yes, sir.

Q. Who did that? A. The boys.

Mr. McCLANAHAN.—Is this redirect?

Mr. FRANK.—Redirect.

Q. The boys?

A. The boys in the storeroom. Sometimes, if we were any too busy, we borrowed a boy out of the machine-shop.

Q. When that material came in for any particular work, how was it charged, to the shop number or to the job? A. To the job.

Q. So that on the boy's card there might be charges to a particular job during the daytime because he was threading bolts for that job?

A. Sure. Everything that comes in there from the outside, every job in the yard, I give him his time and say, "Now, it is half-past 9; charge so much for that, and let me know when you get through." I say, "How long have you been there?" "I am just finished." "Charge half an hour on that job." There are jobs coming in in that way all day long from time to time, from carpenters doing jobs in the yard and on the ships and right along in that way.

Q. At any rate, where there is a particular job done on the machine in a daytime it is charged to

(Testimony of R. H. Roberts.)

that particular number? A. Yes, sir.

Q. The handing out of materials or things of that sort is not [658—569] charged to any number?

A. No, sir.

Q. Unless it is done after quitting time?

A. Unless it is done after quitting time when they are working overtime on that particular job.

Recross-examination.

Mr. McCLANAHAN.—Q. You say, Mr. Roberts, that during the daytime you take out your watch and tell the boy what time it is when he commences on a job, and tell him what time it is when he finishes the job? A. Yes, sir.

Q. What about night-time when you are not there?

A. When he quits, he knows when the whistle blows, if I leave him there in charge. By those cards you will find out in the early part of the night, say we quit at 5 o'clock, I have stayed there until 7 o'clock, or 6 o'clock, to see that everything is all right; from the time he quits his day's work he starts in on his other job; then there is a clock when he punches his time out that he can see the time when he finishes. That belongs to the yard. He has got to punch his time when he leaves the yard on that clock, and he can see the time if I am not there.

Q. That is how you think he computes his time.

A. Yes, sir.

Q. When you are not there?

A. Yes, sir; the number of hours is on his time-

(Testimony of R. H. Roberts.)

card, and he punches the card as he goes out. In my case, in some instances, on a holiday or something, I could not get at the clock to punch it in some cases; whenever he gets a chance to punch the clock his clock is on the outside, and mine is in the office, and the office is locked in some cases; on a Sunday, if no one of the bosses comes down, the office is locked; his clock can always be punched.
[659—570]

Q. Your office is closed, you say, on Sunday?

A. Sometimes; that is, the foreman in charge does not come down there as soon as I do; in coming by where the clock was on Sunday morning I could not punch the clock, for the simple reason there was no one in the office at the time.

Q. So that when the office is closed on Sundays or holidays there is no timekeeper in the office?

A. No, sir. In this case possibly there might have been.

Q. In what case.

A. In the case of this ship, because they were working there all the time.

Q. Was this the only ship that you worked on in September, 1909?

A. I could not say; there were a few other jobs.

Further Redirect Examination.

Mr. FRANK.—Q. Do I understand you to say that the office would not be open when you got there in the morning? A. Yes, sir, in the morning.

Q. Did you mean to be understood as saying that it would not be open during the day?

(Testimony of R. H. Roberts.)

A. Oh, no; it was open all day.

Q. You got there simply before the officeman?

A. Yes, sir, before the officeman. Mine individually. The boy's clock was always on the outside. I had to go in there to punch my clock.

(An adjournment is here taken until to-morrow, Wednesday, September 6th, 1911, at 9:30 A. M.)
[660—571]

Wednesday, September 6th, 1911.

[**Testimony of George La Violette, for Libelant.**]

GEORGE LA VIOLETTE, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. La Violette, you were in the employ of the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. In what capacity?

A. Captain of the launch.

Q. That is a launch that is used by the Iron Works for carrying material between the Works and San Francisco?

A. Yes, sir; used for all purposes.

Q. That is one of the purposes? A. Yes, sir.

Q. Are you in their employ now? A. No, sir.

Q. How long since you left their employ?

A. About 4 or 5 months, I guess.

Q. During the time that you were in their employ, Mr. La Violette, did you keep a record of the time that you worked upon different jobs that were given to you? A. I took time mentally.

Q. I mean did you have these time-cards?

A. Yes, sir, I had cards for everything.

(Testimony of George La Violette.)

Q. Besides the mere transportation of material between the works and different points in San Francisco, did you have anything else to do with the material? A. Besides the Works material?

Q. No. Besides carrying the material in the boat from point to point, did you handle it?

A. Yes, sir.

Q. In what way?

A. Discharged it, loaded it on, or stored it away.

[661—572]

Q. Did you do anything else with it?

A. Unloaded off wagons; general all around handling of it.

Q. Now, I will show you a card dated August 24th, time-card bearing your name, and ask you if that is a card made out by you and in your own handwriting. A. Yes, sir.

Q. At the time it was made out did you know it to be correct and handed it in to the office as a correct statement of the time employed by you on the several jobs named? A. Yes, sir.

Q. How did you get the job numbers to which those several charges are made?

A. I got those job numbers off of the storeroom keeper, off of his material number sheet, called a job number sheet.

Q. That is a sheet that is sent in from the office?

A. Sent in from the office.

Q. How did you keep track of your time?

A. I looked at my watch every new job I entered on, and kept time mentally until the end of the day.

(Testimony of George La Violette.)

On all the separate jobs the time of cartage was divided up.

Q. That is if you had several pieces on different jobs on board, the time of transportation was divided up among those pieces?

A. Divided up among those pieces.

Q. I understand you to say that you had to handle them separately, loading them and unloading them?

A. Separately.

Q. How did you keep that time?

A. I kept that time mentally. I looked at my watch every time I got through. [662—573]

(The card is marked "La Violette No. 2.")

Mr. FRANK.—Q. I now show you a card bearing your name dated, September 10th, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to concerning the other cards. A. That is correct.

Mr. FRANK.—We offer this card in evidence and ask that it be marked La Violette No. 3.

Mr. McCLANAHAN.—We make the same objection.

(The card is marked "La Violette No. 3.")

Mr. FRANK.—Q. I now show you a card bearing your name, dated September 11th, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to con-

(Testimony of George La Violette.)

cerning the other cards.

A. There has been one alteration made in that card after I turned it in.

Q. Well, in case of an alteration of that sort did the timekeeper call your attention to it?

A. Yes, sir.

Q. Talked to you about it? A. Yes, sir.

Q. Did you agree with him on it as to its correctness?

A. Yes, sir. The alteration was always made when he would come to see me, or when I saw him next morning in the office.

Mr. FRANK.—We offer this card in evidence and ask that it be marked La Violette No. 4. [663—574]

Q. With reference to the time of transportation across the bay, state whether or not that was generally a pretty regular amount of time.

A. It would average 45 minutes.

Q. It would average 45 minutes? A. One way.

Q. One way?

A. Yes, sir, that is if I had to run to regular points. If I had to go to extra places, why it took longer.

Q. I notice on this card of August 24th, “295, 2 hours towed ‘Hilonian.’ ” What does that mean? Did you tow the “Hilonian”?

A. Yes, sir; I towed her around from one side of the wharf to the other, or swinging her around in the channel, or something like that, the exact time.

Mr. FRANK.—Now, we offer this card in evidence and ask that it be marked La Violette No. 1.

(Testimony of George La Violette.)

Mr. McCLANAHAN.—We object to the offer on the ground that it is incompetent, irrelevant and immaterial, hearsay, self-serving, and not binding on the respondent.

(The card is marked “La Violette No. 1.”)

Mr. FRANK.—Q. I now show you a card bearing your name of August 27th, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time you handed it in. A. Yes, sir.

Q. Made out in the same manner that you have testified to concerning the other cards? A. Yes, sir.

Mr. FRANK.—Now, we offer this card in evidence and ask that it be marked La Violette No. 2.

Mr. McCLANAHAN.—We make the same objection. [664—575]

Mr. McCLANAHAN.—We make the same objection.

(The card is marked “La Violette No. 4.”)

Mr. FRANK.—Q. I now show you a card bearing your name dated, August 30th, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to concerning the other cards. A. That is correct.

Mr. FRANK.—Now, we offer this card in evidence and ask that it be marked La Violette No. 5.

Mr. McCLANAHAN.—We make the same objection.

(The card is marked “La Violette No. 5.”)

(Testimony of George La Violette.)

Mr. FRANK.—Q. I now show you a card bearing your name dated, August 31st, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to concerning the other cards? A. That is my card.

Q. Is that correct? A. Yes, sir.

Q. In the same way that the rest of them were?

A. Yes, sir.

Q. I notice that is towing the “Hilonian” again, 5295. A. That is correct. That time was correct.

Mr. FRANK.—Now, we offer this card in evidence and ask that it be marked La Violette No. 6.

Mr. McCLANAHAN.—We make the same objection. [665—576]

(The card is marked “La Violette No. 6.”)

Mr. FRANK.—Q. I now show you a card bearing your name dated, September 1st, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to concerning the other cards. A. That is correct.

Q. I notice that on 5295, there is a change in the number there. Is that change in your own handwriting?

A. No, sir, the bookkeeper made that change.

Q. Whom do you mean by the bookkeeper?

A. The timekeeper.

Q. U. I. W. what does that mean?

(Testimony of George La Violette.)

A. The Union Iron Works.

Q. From the Union Iron Works?

A. From the Union Iron Works.

Mr. FRANK.—Now, we offer this card in evidence and ask that it be marked La Violette No. 7.

Mr. McCLANAHAN.—We make the same objection.

(The card is marked “La Violette No. 7.”)

Mr. FRANK.—Q. I now show you a card bearing your name dated, September 8th, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to concerning the other cards. A. That is correct.

Mr. FRANK.—Now, we offer this card in evidence and ask that it be marked La Violette No. 8.

Mr. McCLANAHAN.—We make the same objection.

(The card is marked “La Violette No. 8.”)

[666—577]

Mr. FRANK.—Q. I now show you a card bearing your name, dated September 13th, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to concerning the other cards.

A. There have been some changes made on that card.

Q. Changes made by whom?

(Testimony of George La Violette.)

A. The timekeeper.

Q. In the same manner in which you have specified? A. Yes, sir, he consulted me about it.

Q. And the card was correct at the time you handed it in? A. Yes, sir.

Q. With the exception of those changes?

A. Yes, sir.

Q. And you knew those changes to be correct at the time they were made?

A. Yes, sir, the time was correct, but the numbers were wrong.

Mr. FRANK.—Now, we offer this card in evidence and ask that it be marked La Violette No. 9.

Mr. McCLANAHAN.—We make the same objection.

(The card is marked “La Violette No. 9.”)

Mr. FRANK.—Q. I now show you a card bearing your name dated, September 14th, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to concerning the other cards.

A. The time is correct, but there is a change in the number again.

Q. In the same way? A. Yes, sir.

Mr. FRANK.—We offer this card in evidence and ask that it be marked La Violette No. 10. [667—578]

Mr. McCLANAHAN.—We make the same objection.

(Testimony of George La Violette.)

(The card is marked "La Violette No. 10.")

Mr. FRANK.—Q. I now show you a card bearing your name dated, September 16th, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to concerning the other cards. A. That is correct.

Mr. FRANK.—Now, we offer this card in evidence and ask that it be marked La Violette No. 11.

Mr. McCLANAHAN.—We make the same objection to it.

(The card is marked "La Violette No. 11.")

Mr. FRANK.—Q. I now show you a card bearing your name, dated September 20th, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to concerning the other cards.

A. The time is correct. The card is correct.

Mr. FRANK.—Now, we offer this card in evidence and ask that it be marked La Violette No. 12.

Mr. McCLANAHAN.—We make the same objection.

(The card is marked "La Violette No. 12.")

Mr. FRANK.—Q. I now show you a card bearing your name dated, September 22d, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out

(Testimony of George La Violette.)

in the same manner that you have testified to concerning the other cards. A. That is correct.

Mr. FRANK.—We offer this card in evidence and ask that it [668—579] be marked La Violette No. 13.

Mr. McCLANAHAN.—We make the same objection.

(The card is marked “La Violette No. 13.”)

Mr. FRANK.—Q. I now show you a card bearing your name, dated September 23d, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to concerning the other cards. A. That is correct.

Mr. FRANK.—Now, we offer this card in evidence and ask that it be marked La Violette No. 14.

Mr. McCLANAHAN.—We make the same objection.

(The card is marked “La Violette No. 14.”)

Mr. FRANK.—Q. I now show you a card bearing your name, dated September 24th, and ask you whether or not that is in your own handwriting, made out on that date, and known by you to be correct at the time that you handed it in, and made out in the same manner that you have testified to concerning the other cards. A. That is correct..

Mr. FRANK.—Now, we offer this card in evidence and ask that it be marked La Violette No. 15.

Mr. McCLANAHAN.—We make the same objection.

(Testimony of George La Violette.)

(The card is marked "La Violette No. 15.")

Mr. FRANK.—Q. Did any of the material that you carried have job numbers painted on it?

A. Sometimes it did. Sometimes it did not.

Q. What class of material would have job numbers painted on it?

A. Most all jobs besides the shop material.

Mr. FRANK.—We ask that the clock cards of August 28th, September 11th and September 25th, be marked La Violette No. 16, 17 and 18.

(The clock cards are marked "La Violette No. 16, 17 and 18." [669—580])

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. La Violette, I do not clearly understand your method as shown by these cards of charging time to these several job numbers. You run a launch, or rather you did run a launch, did you?

A. Yes, sir, I did run one.

Q. What does this time on these several cards represent?

A. They represent my day's time of running that boat for the company.

Q. Well, now, we will take your exhibit No. 1 on which appears one of your towing charges for the "Hilonian," two hours; that I can understand. That is, you spent two hours in maneuvering with the "Hilonian"? A. Yes, sir.

Q. But what about the other hours charged to the other job numbers on that particular card? For instance, take the charge of two hours to 242. How did

(Testimony of George La Violette.)

you figure that out?

A. I put in two hours on that material for 242.

Q. Doing what with it?

A. Handling it, taking it across the bay, or bringing it to this side, or handling it over there, loading it and unloading it.

Q. Take the next number, three hours. How did you put in that time?

A. That is 60 drums of paint, three hours. I had to come from Oakland over to San Francisco, get those, load them on the boat and take them back again and discharge them.

Q. You have not now any clear recollection of this time? A. I have when I see the card; yes.

Q. That is, you look at the card and you say to yourself "I put that down at the time and believed it to be correct at the time." You have not any other independent recollection?

A. It was correct at the time. [670—581]

Q. But you have not any independent recollection now aside from the card?

A. I know the time is correct when I see it.

Q. I don't think you understand me.

A. I have no record you mean?

Q. No, you have no recollection now of the time except as your recollection is assisted by looking at the card? A. That is all I have now.

Q. You have forgotten long ago about this work that you performed? A. Yes, sir.

Q. Now, you spent some time in the launch going from one point to another. How did you apportion

(Testimony of George La Violette.)

that time? A. The time is all divided up.

Q. How divided up?

A. Well, if I had one job a day that time was put in on that one job. If I had two it was divided twice.

Q. Let us take an illustration. I show you Exhibit No. 3 which shows exactly nine hours of time on seven job numbers. A. Yes, sir.

Q. Now, how did you apportion the time for running the launch to those seven job numbers?

A. If I made one or two trips on that day I would divide whatever time it took me, an hour to cross, an average of 45 minutes, say. I divided that 45 minutes up.

Q. By seven? A. Yes, sir.

Q. 45 minutes by seven. We are assuming it was 45 minutes. A. It averaged 45 minutes.

Q. That would be one way? A. Yes, sir.

Q. You would go back?

A. That would all be divided up.

Q. That would be 90?

A. If I made two trips it would be four times 45 minutes. [671—582]

Q. Let us take two trips. That would be 180 minutes, would it not? A. Yes, sir.

Q. That you consumed on that particular day, assuming you made two trips of 45 minutes each?

A. Yes, sir.

Q. You divided the 180 by 7? A. Yes, sir.

Q. That would give you 25 and 7-10 minutes for each job? A. Yes, sir, on each job.

Q. Do you mean to say you would do that in every

(Testimony of George La Violette.)

case, divide it up in that way?

A. Every time. If I had 10 or 20 jobs the haulage across the bay was divided up.

Q. Would you be so exact as to divide the time of the launches making the trip across the bay by the number of the jobs that you then carried?

A. That is where the launch made the money for the company, and that is what I was exact about.

Q. You would be exact and divide that by the number of the jobs carried? A. Yes, sir.

Q. And to that you would add the actual time that you spent in handling each of the job number materials? A. Yes, sir.

Q. This was all a mental calculation, was it?

A. The time and the cartage would be mental, yes.

Q. That is the time on your trip across the bay would be a mental calculation?

A. What do you call mental?

Q. I mean by mental, you did not take a pencil and figure it up? A. No, sir.

Q. Or use a watch? A. I used my watch.

Q. You mean to say that you used a watch when you left and used a watch when you arrived?

A. Yes, sir, always.

Q. Always? A. Yes, sir.

Q. Then the mental calculation would be the dividing of the time among the job numbers?

A. Yes, sir. [672—583]

Q. How would you keep time of the handling proposition? Would you take out your watch when you commenced to unload a particular number?

(Testimony of George La Violette.)

A. I had the ferry building clock on this side and my watch on the other side.

Q. Answer my question: Would you look at a time-piece when you commenced to unload a particular number? A. Yes, sir.

Q. When you were through unloading you would look at the time-piece again? A. Yes, sir.

Q. And carry that result mentally in your mind? A. Yes, sir.

Q. Then you would commence on another number and look at the time-piece again? A. Yes, sir.

Q. And look at it when you had finished handling that second job? A. Yes, sir.

Q. You would carry that mentally in your mind? A. Yes, sir.

Q. And so on down the list? A. Yes, sir.

Q. Then you would take these mental calculations for the calculated time and add them to the divided launch time in making the trip? A. Yes, sir.

Q. And that result you would put down on the card? A. Yes, sir.

Q. When would you do that?

A. Every night and every morning.

Q. That is, you would put the result down every night? A. Yes, sir.

Q. You would make no memorandum until the night-time? A. I would make it up at night.

Q. I say you would make no memorandum until the night-time? A. Until the night-time.

Q. All day long you would carry these mental calculations in your head? A. Yes, sir. [673—584]

(Testimony of George La Violette.)

Q. No one checked up your time, of course? That is, no one knew the time that you spent on each job except yourself? A. Except myself.

Q. So that no one checked it up or had any control over it? A. No, sir.

Redirect Examination.

Mr. FRANK.—Q. When you say no one checked up your time you mean no one on board of the boat?

A. No one on board of the boat checked it up.

Q. How about the timekeeper?

A. He checked it up after he got the cards, after I made them out.

Recross-examination.

Mr. McCLANAHAN.—How do you know he checked them up? You just handed them in to him, didn't you? A. Yes, sir.

Q. That is the last that you saw of them?

A. No, sir, I saw them several times after that.

Q. What for?

A. I was in the office all the time and he would speak to me about my cards.

Q. What for?

A. To see if everything was all right. I always asked him for the numbers to see if the numbers were all right.

Q. I am speaking now of a card that was completed and handed in? A. Yes, sir.

Q. You do not know that he checked that up?

A. Yes, sir.

Q. How do you know?

(Testimony of George La Violette.)

A. Because I asked him if the card was all right.

Q. How did he know if it was all right or not?

A. I don't know how he knew that. He is supposed to.

Q. How is he supposed to know that the time on the card is all [674—585] right. He does not go with you on your trip, does he?

A. He gets the time from the clock card. If the time is not all right he tells me about it.

[Testimony of Charles A. Wilson, for Libelant.]

CHARLES A. WILSON, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Wilson, you were in the employ of the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. In the machine-shop? A. Yes, sir.

Q. You kept your time, did you, of the work that you did on the different articles? A. Yes, sir.

Q. That you worked upon? A. Yes, sir.

Q. How did you keep your time?

A. When I would finish I would put it on the card.

Q. How would you know how much to put on the card? How would you keep that time?

A. By the clock, by the shop clock; take note at the time when I started the job and take note of the time when I would finish the job.

Q. When you took note of the time, did you make any record of it when you started and when you finished?

A. Only when starting a job mentally. When I finished the job I would put down the correct time.

(Testimony of Charles A. Wilson.)

Q. That is, when you started on the job you would look at the clock to see what time it was?

A. Yes, sir.

Q. When you finished it you looked again and then reported it; is that right? A. Yes, sir.

Q. I show you a card bearing your name, of September 6th, being one of the exhibits in this case, "Adamson No. 33," and ask you [675—586] whether or not that card is in your own handwriting and entered up in the manner in which you have testified, and whether you knew it to be correct at the time that you passed it in.

Mr. McCLANAHAN.—What is this? A re-identification of Adamson's work.

Mr. FRANK.—It is just what it purports to be. This man is testifying to his own card.

Mr. McCLANAHAN.—Adamson has already identified it.

Mr. FRANK.—Yes.

Mr. McCLANAHAN.—Then it is a re-identification.

Mr. FRANK.—Put it in any way you please. It is this man testifying to his own card.

Mr. McCLANAHAN.—Are we going all over Adamson in this way?

Mr. FRANK.—I don't know. You seem to have some doubts about some of Adamson's cards. I am going to remove all doubts as to the accuracy of this record. I do not want any question left open as to the accuracy of these cards.

A. This is my card.

(Testimony of Charles A. Wilson.)

Mr. FRANK.—Q. It is entered in the way in which you have testified? A. Yes, sir.

Q. Where did you get the job numbers from?

A. They were painted on the job.

Q. They were painted on the job when it was handed to you?

A. Yes, sir; if the job is not large enough for the number to be painted on, the shop foreman hands you a card with the number on.

Q. I do not know whether I asked you, so I will ask you again, that card is entered up in your own handwriting? A. Yes, sir.

Q. And you knew it to be correct at the time that you handed it in?

A. Yes, sir, it was. [676—587]

Q. I now show you a card bearing your name, of September 1st, also one of “Adamson’s Exhibits No. 33,” and ask you whether that is a card entered up by you in your own handwriting in the manner you have already testified to, and whether you knew it to be correct at the time that you passed it in.

Mr. McCLANAHAN.—I object to the question upon the ground that the matter has already been gone over by the witness R. Adamson, and the card now forms a part of “Adamson No. 33.”

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of September 9th, a part of “Adamson Exhibit No. 33,” and ask you whether or not that card was made out by you in your own handwriting in the manner in which you have already testified, and whether you

(Testimony of Charles A. Wilson.)

knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is my card.

Mr. FRANK.—Q. I now show you a card under date of September 12th, and marked “Adamson Exhibit No. 32,” and ask you whether or not that is a card made out by you in the manner you have already testified, and whether you knew it to be correct at the time that you handed it in, and whether it was in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Cross-examination.

Mr. McCLANAHAN.—Q. You are still in the employ of the United Engineering Works?

A. Yes, sir.

Q. You have no present recollection of any of this work shown by these cards?

A. Not any more than what the cards show.

Q. You look at the cards and find they are in your handwriting? A. Yes, sir.

Q. And you verify them on that account?

A. Yes, sir. [677—588]

Q. Your card of September 6th contains on it four job numbers. Does the first job number shown on the card and the time opposite represent the first work done on that day? A. It does.

Q. And the second number represents the second work, and the third number the third work, and the last number the last work done on that day?

(Testimony of Charles A. Wilson.)

A. Yes, sir.

Q. Under the first number on the card representing the first work, there is a change of one hour?

A. Yes, sir.

Q. I understand, Mr. Wilson, that these cards are made out at the end of the day, are they?

A. Yes, sir.

Q. And handed in to the timekeeper, whoever it is? A. Yes, sir.

Q. Now, referring to that first number where you worked one hour, you first looked at the clock?

A. Yes, sir.

Q. Then when you had finished the work you looked at the clock again? A. Yes, sir.

Q. And you carried in your mind the mental calculation of one hour; is that correct?

A. At the end of that hour I put down what I did, and the number of the hours on the job, when the job is finished—each job. On some days there is more work than others and I could not carry it if I did not place it on the card.

Q. Do you remember the question that I asked you just before, if you made out these cards at the end of the day, and you answered yes; is that correct?

A. Yes, sir; I put this on another slip. I keep track on another slip.

Q. Oh, you have got another slip? A. Sure.

Q. So that if the second job then is commenced at a certain [678—589] time you put that down on that slip? A. Yes, sir.

Q. When you finish it you put that down on the

(Testimony of Charles A. Wilson.)

slip? A. Yes, sir.

Q. When you take up the third job, you put down the time on the slip? A. Yes, sir.

Q. When you finish it you put it on the slip?

A. Yes, sir.

Q. When you pick up the fourth job you put that on the slip? A. Yes, sir.

Q. And when you finish that job then you put that on the slip? A. Yes, sir.

Q. Is there anything else you put on the slip?

A. No, sir.

Q. Nothing else except the time? A. No, sir.

Q. So there is something that you carry in your mind where you work on several numbers, and that is what—the work done, is it not? A. Yes, sir.

Q. You use the slip only for keeping tab of the time? A. That is the idea.

Q. Had you forgotten about that slip when you were testifying on your direct examination and were asked how you kept time on these cards?

A. Yes, sir.

Q. You had forgotten about it? A. Yes, sir.

Q. When these cards were finished you put them in the box, didn't you? A. Yes, sir.

Q. And that is the last you saw of them?

A. It is.

Q. Do you know where they went to from the box?

A. To the timekeeper I should surmise, in the office.

Q. You don't know?

A. I could not say anything else.

(Testimony of Charles A. Wilson.)

Q. Did anyone have anything to do with your cards except yourself?

A. That is all. [679—590]

Q. Until you put them in the box? A. Yes, sir.

Q. In other words, you kept your own time?

A. Yes, sir.

Q. And no one checked it until it got into the office? A. No, sir.

Q. I hand you the same card of September 6th containing the four job numbers; is that all in your handwriting? A. It is.

Q. You did not make the red ink?

A. Except the red ink.

Q. And except the black ink? A. Yes, sir.

Q. All the pencil is yours? A. Just the pencil.

Q. Did you make these check marks here (pointing)? A. No, sir.

Q. Then it is not all in your handwriting. Who made those check marks? A. I could not say.

Redirect Examination.

Mr. FRANK.—Q. When you say you kept track of your time on your slips, how did you do it with respect to the numbers? Do you know what I mean? A. Not quite.

Q. Well, what else did you put on your slips besides the hours worked, to identify the work?

A. Whatever the job was.

Q. What do you mean by that—the job numbers?

A. Yes, sir.

Mr. McCLANAHAN.—I object to your leading him.

(Testimony of Charles A. Wilson.)

Mr. FRANK.—I want to find out what he knows.

Mr. McCLANAHAN.—So do I.

Mr. FRANK.—Q. Go on. What is it?

A. If it was a brass bolt, I would put on this slip so many hours, such a number, and a brass bolt.

Q. Then you put the whole record down on the slip just the same as on the card?

A. Yes, sir. [680—591]

Q. Did you notice on your cross-examination you were asked if the hours worked was the only thing you put down on the slip? A. Yes, sir.

Q. Did you mean to be understood as not having put down the article worked on?

A. No, sir; it was the article worked on, the number of the job, and the number of hours.

Recross-examination.

Mr. McCLANAHAN.—Q. Now, I understand, Mr. Wilson, that this slip was practically a duplicate of the entire matter on the time-card?

A. Yes, sir.

Q. Why did you not tell me that when I was cross-examining you?

A. I did not quite get on to the idea of what you were getting at.

Q. It requires Mr. Frank's assistance to put you on to the idea; is that it? A. Yes, sir.

Q. What was the object of keeping these slips which contained in them the exact information that you were going to put on the card?

A. I had no other way of keeping track of my time.

(Testimony of Charles A. Wilson.)

Q. Did you not have the cards? Why did you not put this information on the cards?

A. I don't quite understand you.

Q. You had the cards, the blank time-cards?

A. Yes, sir.

Q. Why did you not use the cards instead of the slip from time to time as you progressed with your work?

A. You must understand that my hands are very dirty. I don't care about putting a card in that they would not be able to read.

Q. By the way, what are you?

A. A machinist. [681—592]

[Testimony of W. B. Thomas, for Libelant.]

W. B. THOMAS, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Thomas, you were working in the United Engineering Works in August and September, 1909, were you? A. Yes, sir, I was.

Q. In what capacity? A. Machinist.

Q. When so working, Mr. Thomas, did you keep track of your time that you worked on each job?

A. I turned in my time-cards, of course.

Q. That is you kept track of your time?

A. Yes, sir.

Q. And put it on time-cards and passed them in; is that right? A. Yes, sir.

Q. How did you get your job numbers?

A. From the numbers painted on the job, the article worked on.

Q. And how did you keep track of the hours

(Testimony of W. B. Thomas.)

worked? A. By the clock.

Q. Did you make any record of it at the time that you started on the work?

A. When I finished the job I put the time down. I noted the time when I started.

Q. You noted the time when you started?

A. Yes, sir.

Q. And when you finished—

A. I put the time on my card.

Mr. McCLANAHAN.—I should like to have the witness testify himself.

Mr. FRANK.—That is what he is doing.

Mr. McCLANAHAN.—You come pretty nearly testifying yourself.

Mr. FRANK.—Not at all. I repeated what he said.

Q. Tell us over again, Mr. Thomas, how did you do it? [682—593]

A. I would note the time I started on the job, and when I finished the job I would put the time on a card and also the job number.

Q. You say on a card? A. Yes, sir.

Q. Was that the card that you passed in?

A. Yes, sir, a time-card similar to this (pointing).

Q. Similar to this?

A. The same as on the other cards.

Q. Did you use any means of memorandum before you copied it on to the card?

Mr. McCLANAHAN.—I object to the question as leading and suggestive. I must request, Mr. Frank, that you ask the witness to testify. It is clearly lead-

(Testimony of W. B. Thomas.)

ing and suggestive.

A. No, sir, I did not.

Q. Now, I show you a card of yours of August 25th, being a part of "Adamson Exhibit No. 55," and ask you if that is a card made out by you at the time indicated in your own handwriting and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—I object to the question upon the ground that the card has already been identified by Adamson and forms part of his exhibit No. 55, and that this evidence is encumbering the record.

A. I identify the card as my card.

Mr. FRANK.—Q. Was the card, at the time you made it out, correct? A. It was correct.

Q. You knew it to be correct at that time?

A. Yes, sir.

Q. I show you another card of yours of August the 26th, being a part of "Adamson Exhibit No. 55," and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in. [683—594]

Mr. McCLANAHAN.—The same objection.

A. Yes, sir; it is my card and I know it to be correct.

Q. I now show you a card of August 27th, being a part of "Adamson Exhibit No. 55," and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

(Testimony of W. B. Thomas.)

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is my card.

Q. I now show you a card of August 28th, being a part of “Adamson Exhibit No. 55,” and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card, too.

Mr. FRANK.—Q. All these cards you testified to as having been correct at the time that you handed them in? A. Yes, sir.

Q. I now show you a card of September 1st, being a part of “Adamson Exhibit No. 53,” and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. Made out in the manner in which you have testified? A. Yes, sir.

Q. I now show you the card of September 5th, being a part of the same exhibit and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in?

Mr. McCLANAHAN.—The same objection. [684—595]

A. That is my card.

Q. Made out by you in the same manner?

A. Yes, sir, made out by me in the same manner.

(Testimony of W. B. Thomas.)

Q. I now show you a card of September 6th, being part of the same exhibit, and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I now show you a card of September 7th, being part of the same exhibit, and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I now show you a card of September 8th, part of the same exhibit, and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I now show you a card of September 9th, part of the same exhibit, and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I now show you the card of September 10th, part of the same exhibit, and ask you if that is a card made out [685—596] by you at

(Testimony of W. B. Thomas.)

the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I now show you a card of September 12th, part of “Adamson’s Exhibit No. 54,” and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card, too.

Mr. FRANK.—Q. I notice on that card, that some of the numbers were changed in red ink; how was that done?

A. That is a mistake in the number.

Q. How was the change made?

A. By the timekeeper calling my attention to it, and by our going over the work together and tracing the thing up.

Q. And making the correction? A. Yes, sir.

Q. I now show you a card of September 15th, part of the same exhibit, and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I now show you a card of September 17th, being part of the same exhibit, and ask

(Testimony of W. B. Thomas.)

you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card. [686—597]

Mr. FRANK.—Q. I now show you a card of September 19th, being part of the same exhibit, and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card, too.

Mr. FRANK.—Q. I now show you the card of September 21st, being part of the same exhibit, and ask you if that is a card made out by you at the time indicated, in your own handwriting, and if you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Cross-examination.

Mr. McCLANAHAN.—Q. You are still with the United Engineering Works, Mr. Thomas?

A. I am.

Q. These cards were made out at night, were they?

A. Yes, sir, on the computation of the work, at night, except we were doing overtime and we worked late then it would be almost morning before I made them out.

Q. Was the whole card made out at night?

A. I mean add the time. We noted the job as

(Testimony of W. B. Thomas.)

we went along.

Q. That is, as you commenced on the job you put down the job number, and the hours worked as you finished on that job, and the character of the work?

A. Yes, sir, the class of the work.

Q. Then you would take up another job number or job and note the time, commence the work, and when you would finish note the time again?

A. Yes, sir.

Q. Put down the time?

A. Yes, sir, and the number. [687—598]

Q. And the character of the work?

A. Yes, sir.

Q. At the end of the day you would simply add up the time? A. Yes, sir.

Q. And put it down? A. Yes, sir.

Q. Then what would you do with the card?

A. Drop it in the box at the timekeeper's office.

Q. What became of the time after that?

A. The foreman went over it, I believe, and checked the time to see if it was correct, and the timekeeper also, I believe.

Q. You don't know anything about that, do you?

A. No, sir.

Q. No one had anything to do with your card during the day while you were keeping it? A. No, sir.

Q. No one had anything to do with keeping your time except yourself? A. No, sir.

Q. And when the day was finished the card passed directly from you to the box? A. Yes, sir.

Q. I see from these cards Mr. Thomas, that there

(Testimony of W. B. Thomas.)

is no connection of the time kept by you on any of them. Do you understand what I mean? No correction of the time on the cards?

A. No correction of the time?

Q. You understand what I mean? A. No, sir.

Q. I mean that the time entered by you remains uncorrected on all these cards, unchanged?

A. Unchanged.

Q. In other words, your time was never disputed by anyone? A. No, sir.

Q. In fact, there could be no one who would know anything about it except yourself?

A. No, sir—the clock would register that. If there was a mistake the clock card would not correspond with my time-card.

Q. The clock card simply shows the time that you go into the shop and the time you go out?

A. Yes, sir. [688—599]

Q. It does not show the time that you worked on particular jobs?

A. No, sir, it does not. It merely registers the time itself. It does not go into any details; that is, it does not mention no particular job; just the time starting and quitting.

Q. The time you go into the shop, and the time you come out? A. Yes, sir.

Q. That is all it registers? A. Yes, sir.

Q. No one but yourself knows how much time you put on each particular job?

Mr. FRANK.—How can the witness testify to that, whether anyone else knows or not?

(Testimony of W. B. Thomas.)

Mr. McCLANAHAN.—Let us see if he can answer.

A. The foreman would know who gave us the work. He would naturally know how much time we spent on it.

Q. Is that your answer?

A. He would know. He gave us the work.

Q. Is that your answer? A. Yes, sir.

Q. How many men are there in the machine-shop—were there at that time?

A. I don't know. I could not say.

Q. 30 or 40?

A. I don't know how many there were.

Q. You do not mean to say that the foreman attempts to keep the time of each of the men in the shop? A. No, sir, I do not mean to say that.

Q. Or much less would he pretend to keep the time that each man worked on each particular job number? A. No, sir.

Mr. FRANK.—I object to your attempting to argue that with the witness.

Mr. McCLANAHAN.—The witness has answered the question.

Mr. FRANK.—He has answered it argumentatively, yes.

Mr. McCLANAHAN.—Very emphatically. [689—600]

Mr. FRANK.—So far as he knows anything about it.

Mr. McCLANAHAN.—Q. You never report to the foreman or to the assistant foreman when you commence on a job, and when you finish that particu-

(Testimony of W. B. Thomas.)

lar job, do you, and the time you finish it?

A. I report in order to get some other work to commence on. I finish one job and tell him I am through to get something else to work on.

Q. You never report the time that you work?

A. I never report the exact number of hours.

Redirect Examination.

Mr. FRANK.—Q. How do you know, Mr. Thomas, whether the foreman is keeping tab on the number of hours that you work on any particular job or not? Do you pay any attention to what he is doing?

A. No, sir, I do not.

Q. So he might be keeping track of you, and you not know it?

A. Yes, sir he might be. [690—601]

[Testimony of Rudolf Schafer, for Libelant.]

RUDOLF SCHAFFER, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Schafer, you were working in the United Engineering Works in September, 1909? A. Yes; that is right.

Q. In what capacity, what were you?

A. Machinist.

Q. The time you were working there, did you keep a record of the job numbers and the hours worked upon them? A. Yes, sir.

Q. I show you a card dated September 5th and ask you if that is a card made out by you at that time for the work that you performed?

A. Yes; that is my writing.

(Testimony of Rudolf Schafer.)

Q. Is it in your writing? A. Yes, sir.

Q. Where did you get the job number from?

A. From the foreman; and it is written on the piece too.

Q. On the piece? A. Yes.

Q. How did you keep track of the number of hours that you worked on a particular job number? What I mean is this, how do you know how many hours you have worked on a particular job number? Do you know what that means?

A. Yes. When I get a job I put the job number down and the time from the last job and so that means that I start a different job this hour.

Q. Where do you put it down?

A. I put it down on this time-card here.

Q. That is, you put down the number on the time-card? A. Yes.

Q. When you say you put down the time of the last job, what do you mean?

A. I know how many hours—I see how many hours I work on that. I look at the clock, the clock is right in front of me, and that shows me how many hours I work on it.

Q. And then you pick up the next job number?

A. I put the next job number down and then when I am through I put the time down [691—602] again.

Q. This card which is shown you of September 1 is a part of Adamson No. 37. At the time that you passed that in, did you know it to be correct?

Mr. McCLANAHAN.—I object to the question on

(Testimony of Rudolf Schafer.)

the ground it is cumulative, the card being a part of Adamson Exhibit No. 37 already introduced and verified by the witness, and on the further ground that this examination is encumbering the record.

Mr. FRANK.—Read the question.

(The last question repeated by the Reporter.)

A. Of course; I know that.

Q. I now show you another card of September 6th, of Adamson Exhibit No. 37, and ask you if that is a card entered up by you at the time in your own handwriting in the same manner as you have testified to concerning the first card.

Mr. McCLANAHAN.—The same objection.

A. Yes; that is right; everything.

Mr. FRANK.—Q. And was it or was it not correct at the time that you passed it in?

A. It is correct; it is right there; everything is all right on this card.

Q. I now show you a card of August 30th, a part of Adamson Exhibit No. 37, and ask you whether that is a card entered up by you in your handwriting in the manner you have already testified and whether you knew it to be correct at the time it was passed in.

Mr. McCLANAHAN.—The same objection.

A. Yes, that is right.

Mr. FRANK.—Q. I notice on that card there are some changes made in red ink in the job numbers. How were those changes made?

Mr. McCLANAHAN.—Same objection, on the ground that it has [692—603] already been ex-

(Testimony of Rudolf Schafer.)

plained and amplified by Mr. Adamson.

A. You see here I put the wrong number down, and the timekeeper comes and tells me, "You put the wrong number down, and I am going to put this number down; is that right?" I says, "Yes." So he corrects that over with his own writing the wrong number. Yes, that is right.

Mr. FRANK.—Q. When he asked you if that is right, what would you do to find out whether it was right or not?

A. I go to the foreman and then I look at the piece; it is written there; if it is not right I would not allow him to put the number down.

Q. I now show you a card of September 10, a part of Adamson Exhibit No. 37, and ask you whether or not that is a card in your handwriting and made out in the manner you have already indicated respecting the other cards you have already testified to and whether you knew it to be correct at the time it was passed in.

Mr. McCLANAHAN.—The same objection.

A. Yes, that is right too. That shows that I was working on the right eccentric; it shows how careful I have been in this way; I been working on the right-hand eccentric; even that part is down.

Mr. FRANK.—Q. I now show you a card of September 1, a part of Adamson Exhibit No. 37, and ask you whether or not that is a card in your own handwriting, and made out in the manner you have already testified to and whether you knew it to be correct at the time you passed it in.

(Testimony of Rudolf Schafer.)

Mr. McCLANAHAN.—The same objection.

A. Yes, that is right. [693—604]

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Schafer, referring to your card of August 30, which contains five job numbers, as you see (showing).

A. Yes, five job numbers.

Q. Will you tell me how you kept the time on those five job numbers?

A. When I am through with the job I write it down, 11½, the eccentric, and then I start again another job with a different number and that I put down, the hours, and so on down to when the day is over.

Q. So you have this card with you all the time?

A. Yes, I keep that card right in front of me.

Q. Now, when this work is over you put this card in a box? A. Yes, sir.

Q. And it passes to the timekeeper?

A. Yes, a box, and it goes to the timekeeper, yes; nobody can go in there.

Q. And the timekeeper makes these corrections in the job numbers that we see in red ink?

A. The next morning, if I make a mistake, he comes to me, and I go to the foreman and I look at the piece and I see I am mistaken, so I tell him all right.

Q. Suppose the piece isn't there, then what do you do?

A. Go to the foreman, and there is a book there

(Testimony of Rudolf Schafer.)

where the job number is in there, and then he corrects that.

Q. Who was the foreman in September and August, 1909? David Doig?

A. Yes, David Doig; that is the man.

Q. He is the man that you go to? A. Yes.

Q. And make these corrections?

A. Yes; that is the man I go to.

Q. Do you make these marks on the cards, these check marks? A. No, sir.

Q. Who marks those?

A. I think that is right—that is right. [694—605]

Q. Who makes these, do you know?

A. I don't know who made that.

Q. Nobody keeps track of your time except yourself while you are working on the job?

A. Yes, and the timekeeper, of course, and the foreman.

Q. Timekeeper and the foreman?

A. Yes. When the card is wrong he comes in and tells me I got the wrong number.

Q. I am speaking about your time. A. Yes.

Q. Nobody keeps track of your time except yourself? A. Except myself, of course.

Q. Now, you are sure that you would go to David Doig with these cards and the timekeeper and make these corrections of the number?

A. Yes, of course; sure.

Redirect Examination.

Mr. FRANK.—Q. Do you remember Robert

(Testimony of Rudolf Schafer.)

Adamson? Do you know Robert Adamson?

A. I don't know if he was in this time. I have been in Europe 14 months, I can't remember that; if he had the charge of these books then or not. I can't remember that.

Q. You can't remember that? A. No, sir.

Q. Well, then, when this gentleman said to you that you went to David Doig as the foreman to change these numbers, do you remember that distinctly who it was that you went to as the foreman?

A. David Doig did that before Mr. Adamson did it.

Q. Yes, but you don't know—

A. It may be that Mr. Adamson did that—yes, I think Mr. Adamson did that in this time, when we was working on the “Hilonian.”

Q. So when you said it was David Doig you were thinking of the time before Adamson took up that job? A. Yes, sir.

Mr. McCLANAHAN.—I object to that as suggestive and leading. [695—606]

Mr. FRANK.—It is very plain what was done.

Q. Now, would you know whether Mr. Adamson was keeping track of your time or not? Did you know anything about it? Could Mr. Adamson be keeping track of your time without your knowing it?

Mr. McCLANAHAN.—I object to that on the ground that the witness has testified that he did not know he was there positively.

Mr. FRANK.—He said he did not know whether Adamson or Doig was there at the time. I will

(Testimony of Rudolf Schafer.)

change the question.

Q. The foreman, whoever it was, would you know whether he was keeping track of your time on each one of your jobs or not?

A. Oh, yes, he knows that all right, how long I work. Oh, yes, sure, he knows how long I work on a piece.

Q. On a piece? A. Oh, sure.

Recross-examination.

Mr. McCLANAHAN.—Q. You never had any dispute with the foreman about the time that you worked on a piece, did you?

A. Sometimes the foreman said, “Did you work so long on this piece?”

Q. Who would come and say that?

A. The foreman.

Q. And what did you say?

A. I said “Yes.”

Q. What did he say?

A. And he said, “Do you remember the time I gave you the other job,” and he said, “All right.”

Further Redirect Examination.

Mr. FRANK.—Q. That is, sometimes there would be a question about it and you would go over it together? A. Yes, sir. [696—607]

[**Testimony of P. Mockel, for Libelant.**]

P. MOCKEL, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Mockel, you were employed at the United Engineering Works, were you, in August and September of 1909? A. Yes, sir.

(Testimony of P. Mockel.)

Q. Did you keep a record of your time that you worked on each job? A. Yes, sir.

Q. I now show you a card dated August 31, it being a part of Adamson Exhibit No. 5, and ask you if that is a card made out by you in your handwriting, making a record of the time worked on the several jobs on that day, August 31.

Mr. McCLANAHAN.—I object to the question on the ground that the card has already been identified by Adamson and forms a part of his Exhibit No. 5; on the ground that it is cumulative, and on the ground that it is encumbering the record by the further examination of the card.

Mr. FRANK.—Q. What is your answer?

A. Yes, that is my writing.

Q. How did you get the job numbers?

A. They were written right on the job with chalk or generally painted on with white lead.

Q. How did you keep a record of the hours worked on each job?

A. If I would get a job I would look at the job. I had a slate there on the machine that I worked by, generally, a big slate, and I always kept a record on the slate there.

Q. What would you put on the slate?

A. Well, I put the time from when I started in until I finished; then I would erase that and just put down the job and the time I had on it, each time.

Q. That is the job number and the time you had on it? [697—608]

A. The time I started and then to the time I fin-

(Testimony of P. Mockel.)

ished. When I would get finished with the job I would write it on the other side of the slate and then erase this, and on the other side of the slate would be the time I put on that job, just as if I were going to write out my time-card.

Q. I notice on this card of August 31 there are two changes in red ink of job numbers. Do you know how that occurs?

A. Well, probably that is an overlook of mine on the numbers; there happened to be a few job there; just an overlook on the slate, probably, just mixing them.

Q. How is that change made?

A. Well, I suppose it is made by the timekeeper. I know he generally comes out and rectifies the mistake and I show him the job and he looks it over and then we conclude that that is the right number. He tells me the number of it and I take the number he gives me, in case I should happen to be working on the job, and put it down on it. The timekeeper rectifies the mistake.

Q. In this case it is a change from 52 to 25 is it not? The numbers are reversed?

A. That is it, yes, 52 to 25.

Q. At the time that this card was made out and passed in finally as correct you knew it then to be a correct record of the work that you did?

A. Yes, sir.

Q. I show you a card of September 8th, being a part of Adamson Exhibit No. 5, and ask you if that is a record made by you in the same manner you have

(Testimony of P. Mockel.)

just testified to, and whether you knew it to be correct at the time you passed it in to the office.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you now a card dated September 9th, [698—609] being part of Adamson Exhibit No. 5, and ask you if that is a record made by you in the same manner which you have testified to concerning the first one, and known by you to be correct at the time you passed it in to the office.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir. That is written out by me.

Mr. FRANK.—Q. I note here also a change in the job numbers.

A. That was done by the timekeeper; he came to see me about it.

Q. The same way you have already testified?

A. Yes, sir.

Q. I show you now a card dated September 11th, being a part of Adamson Exhibit No. 5, and ask you if that is a card made out by you in the manner in which you have already testified, and passed in as correct by you at the time.

Mr. McCLANAHAN.—The same objection.

A. Yes; that is my writing.

Mr. FRANK.—Q. I show you now a card of September 12th, being a part of Adamson Exhibit No. 6, and ask you if that is a card made out by you in the manner in which you have already testified, and passed in as correct by you at that time.

(Testimony of P. Mockel.)

Mr. McCLANAHAN.—The same objection.

A. Yes; that is my writing.

Mr. FRANK.—Q. I show you now a card of September 13th, being a part of Adamson Exhibit No. 6, and ask you if that is a card made out by you in the manner in which you have already testified, and known by you to be correct at the time you passed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes; that is my writing.

Mr. FRANK.—Q. By your writing, you mean that is your card [699—610] made out in the way in which you have testified to? A. Yes, sir.

Q. I now show you a card of September 14, being a part of Adamson Exhibit No. 6, and ask you if that is a card made out by you in the manner in which you have already testified, and known by you to be correct at the time you passed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my writing, and written out according to the way I have already testified.

Mr. FRANK.—Q. Now, I show you a card dated September 15th, being a part of Adamson Exhibit No. 6, and ask you if that is a card made out by you in the manner in which you have already testified, and known by you to be correct at the time you passed it in.

Mr. McCLANAHAN.—The same objection.

A. That is my time-card, that I wrote out.

Mr. FRANK.—Q. I show you now a card dated September 17th, being a part of Adamson Exhibit

(Testimony of P. Mockel.)

No. 6, and ask you if that is a card made out by you in the manner in which you have already testified, and known by you to be correct at the time you passed it in.

Mr. McCLANAHAN.—The same objection.

A. That is another one I wrote out.

Mr. FRANK.—Q. I show you now a card dated September 20th, being a part of Adamson Exhibit No. 6, and ask you if that is a card made out by you in the manner in which you have already testified, and known by you to be correct at the time you passed it in. [700—611]

Mr. McCLANAHAN.—The same objection.

A. Yes, that is my time-card.

Mr. FRANK.—Q. I show you now a card dated September 21st, being a part of Adamson Exhibit No. 6, and ask you if that is a card made out by you in the manner in which you have already testified, and known by you to be correct at the time you passed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes, that is my card.

Cross-examination.

Mr. McCLANAHAN.—Q. What kind of a slate was this, Mr. Mockel, that you made your memorandum on?

A. A slate about 8 by 12; it is a regular school slate, what they use in schools; the identical thing.

Q. That was your individual slate, was it?

A. Yes.

Q. Belonged to you individually? A. Yes, sir.

(Testimony of P. Mockel.)

Q. How did you get the time, on your clock or watch?

A. The clock in front of me, all the time; just right in front.

Q. Nobody checks your time except yourself?

A. Myself, that was all, before I hand them in.

Q. When you handed it in it passed into the office?

A. Yes.

Q. Did you say that the job number was painted on the iron or work, whatever it was?

A. It was generally with a little brush; that is, in large work. Of course, in other work it was just written in chalk, written right on with chalk.

Q. And you would go to the piece that you were to work on and see the job number and copy it at once on to the slate?

A. Yes. There was some; if there was no place for any writing by [701—612] chalk, a little yellow slip was always handed to me, giving me the job number and what it was for.

Q. Now, I refer to your card of September 17th. I call your attention to the last job number appearing on that card which seems to have been originally 2255. A. I see that.

Q. And it was changed in red ink by the time-keeper, as I understand it, to 5029? A. Yes, sir.

Q. Now, how is that change made? You and he went to the piece of work and found that the number was 5029 on it?

A. Well, he came to me and he asked me about that number. He asked me if I did not have the

(Testimony of P. Mockel.)

wrong number. Well, then, I says, "I don't know," "not unless I made a mistake in copying it down," and I went to the work with him and him and I talked it over and he told me that I had the wrong number or made a mistake. I would show him everything and then we decided that I had made a mistake in getting down the numbers.

Q. Well, the marking on the material itself would settle the question, would it not?

A. Yes. That is how we decided it; I brought him right over to it.

Q. That is, the marking on the plate or whatever it was was 5029 and not 2255? A. That is it.

Q. How could you possibly make such a mistake?

A. Well, you see, when I finish a job I throw it right on the floor and probably the helper takes it to the front of the shop to be taken out in a boat, and I have a record of the number right there at the machine, and so I take up another job and evenings I write it down, and I have quite a few numbers on the slate, and just about quitting [702—613] time, I might have been in a little hurry and overlooked the number, just copied the wrong number down.

Q. Well, referring specially to this card of September 17, you must have got from something that number 2255? A. I certainly must have.

Q. And put it down correctly on your slate. Now how do you account for the change from 2255 to 5029?

A. Well, I had the right numbers in the slate and I just probably had just a look at the slate quick,

(Testimony of P. Mockel.)

and thought in my mind that was the number, and I just put that number that I had in my mind at the time down.

Q. Now, isn't it—

Mr. FRANK.—Do you recall the fact, Mr. McClanahan, that neither of these are “Hilonian” numbers? I object to that as immaterial.

Mr. McCLANAHAN.—Q. Isn't it so, Mr. Mockel, that the timekeeper would come in to you and tell you he was going to change that number from whatever you had it on your card to some other number, and make the change without consulting the piece from which you copied the number originally? Wouldn't he do that sometimes?

A. No. As long as I have been working there he has never done that.

Q. What is your occupation? A. Machinist.

Q. Where would these changes in red ink be made?

A. Well, he always had a pencil and just write in front of me—I think he had always brought a tablet with him and he would mark it down and put a little check mark alongside the job. I don't know whether you can recognize it; then he would go over it with the ink. [703—614]

Q. Is that the check you refer to (pointing)?

A. I don't know what kind of a check he made, but I know he always put it down.

Q. Well, you see these check marks on your card, don't you?

A. Well, those check marks are O. K.

Q. You refer to his checking something. Are

(Testimony of P. Mockel.)

those his check marks (pointing)? A. Yes.

Q. The timekeeper's check mark? A. Yes, sir.

Q. Made in your presence?

A. Yes. Just runs down them and checks them up, all that are O. K.

Q. What was the timekeeper's name at that time?

A. Wait a minute. I know he is a one-armed fellow; Sjoberg.

Q. So those check marks represent his checking up your work, your time-card?

A. Well, he checked them in my presence. You see those were O. K.'d.

Q. He is the proper man to check over your card, is he?

A. Well, I suppose he is. I don't know what—

Q. Did he always do it?

A. He always did it, yes.

Q. In your presence? A. Always.

Redirect Examination.

Mr. FRANK.—Q. Do you know how your cards were checked up O. K. in the office, Mr. Mockel?

A. I don't know what went on at all in the office—just he would come out to see me.

Q. Do you know whether or not Adamson, the assistant foreman, ever checked up your cards?

A. Yes. I noticed he did go almost every morning into the office and I was often told he was in checking up the cards.

Mr. McCLANAHAN.—I object to that and ask that it be stricken [704—615] out as hearsay, what the witness was told.

(Testimony of P. Mockel.)

The WITNESS.—Well, he has told me himself.

Mr. McCLANAHAN.—Wait a moment.

Mr. FRANK.—Wait a moment. That is all right; nobody is hurt.

Q. Now, would the timekeeper come out to see you on any occasion except when there was to be a change made in your number or something of that sort? A. That is all, the only time he ever came.

Q. He did not come every day?

A. No, sir, not to me.

Q. I will show you now a card of September 14th; you notice there are check marks on that card too?

A. Yes, sir.

Q. That would not be made as you have suggested in your presence?

A. Well, he has always made the check marks right in my presence on the end there.

Q. But he would not bring that card to you at all, would he? A. Oh, no, not that card; no, sir.

Q. When you say he made the check marks in your presence you mean in the cases where he made a change in the number?

A. The check marks would be O.K.; the number would be all right, satisfactory. In a case, for instance, there would be a number wrong, and he would have the card in his hands, and he showed me the wrong number, he checked the number off that he asked me about. The other ones he would not go through.

Q. But it was only in those cases—

A. Only in those cases that I noticed.

(Testimony of P. Mockel.)

Q. —that he ever came to you; only in cases where there was a mistake in number?

A. Yes, sir. [705—616]

[**Testimony of John Benson, for Libelant.**]

JOHN BENSON, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Benson, you were working in the United Engineering Works in September, 1909? A. Yes, sir.

Q. In what capacity? A. Machinist.

Q. At the time you were so working did you keep any record of your time you worked on each job?

A. Yes, sir.

Q. I show you a card dated September 12, being part of Adamson Exhibit No. 3, and ask you whether or not that is a card made out by you in your own handwriting.

Mr. McCLANAHAN.—I object to the question on the ground that the card has already been identified by Adamson and forms a part of his Exhibit No. 3; on the ground that it is cumulative, and on the ground that it is encumbering the record by the further examination of the card.

A. That is my writing; yes.

Mr. FRANK.—Q. How did you get the job numbers?

A. From the job itself; it was painted, I think, usually. If from a drawing, the job number was painted on the drawing; but the work itself, it is usually on that, painted on it, before it is given out.

Q. Talk a little louder so that we can all hear you. How did you keep track of the number of

(Testimony of John Benson.)

hours worked on a particular job?

A. As soon as I got the job I looked at the clock and make a note of it, and when the job was finished of course I make another note, and that is the time it took to do the job.

Q. There is nothing very unusual about this, Mr. Benson. You needn't be at all excited about it.

A. I have a slight sore throat.

Q. But you seem to be nervous.

A. Perhaps I am. That is the first [706—617] time I ever was in court.

Q. There is no necessity for getting nervous; this is a plain every day affair, finding out the truth of this matter. You say you made a note of the time when you commenced. How would you make the note, whether mentally or write it down on something? A. Write it down on a piece of paper.

Q. And you kept a record in that way?

A. Yes, sir.

Q. And when the job was done, or rather when did you make your entry on the card?

A. On the time-card?

Q. Yes. A. At night.

Q. At night?

A. Before going home; after working on it.

Q. Previous to that I understand you made your record on a piece of paper?

A. Yes, and copied it on to the time-card.

Q. At night-time? A. Yes, sir.

Q. I understand this card of September 12th is your card made out by you in your handwriting at

(Testimony of John Benson.)

that time? A. Yes, that is my card and writing.

Q. Made out in the manner in which you have testified? A. Yes, sir.

Q. Now, I show you another card of September 13, being a part of Adamson Exhibit No. 3, and ask you whether or not that is a card made out by you.

Mr. McCLANAHAN.—The same objection.

A. It was made out by me and my writing.

Mr. FRANK.—Q. In the same manner in which you have testified to? A. Yes, sir.

Q. And known to be correct at the time you passed it in? A. Yes.

Q. I now show you a card of September 17th, being a part of Adamson Exhibit No. 3, and ask you if that is a card made out [707—618] by you in the manner in which you have already testified, and known by you to be correct at the time you passed it in?

Mr. McCLANAHAN.—The same objection.

A. My card and my writing.

Mr. FRANK.—Q. There is a change of number in red ink 5029, do you know how that is done?

A. That would be done by the timekeeper; there was a mistake in the number and he has altered it.

Q. What is the practice of the timekeeper when he makes a change of that sort, with respect to coming to you and consulting with you about it?

A. He would bring my time-card and point out the number and ask me what it was, and tell me if it was wrong; he would say, it would be so and so, and he would alter it.

(Testimony of John Benson.)

Q. Would you make any examination with him into the question to see whether it was right or wrong?

A. Not if he would say it was wrong; if I had got the number wrong of course he knows more about it than I do, so he would put it down. I don't know anything about it only what he told me or what I saw marked on the drawing or on the job itself.

Mr. FRANK.—All these cards that are being testified to are considered reoffered in evidence, Mr. McClanahan, or else I will have to reoffer them, because you had an objection to the former offer; if you wish to repeat it I prefer you repeat it to these; otherwise I will consider them reoffered.

Mr. McCLANAHAN.—I object to the reoffer, but of course my objection cannot be passed on now. Therefore I make the same objection to each reoffer of this character on the ground that they are incompetent, immaterial, and irrelevant, hearsay, self-serving, and not binding on the respondent. [708—619]

Mr. FRANK.—It will be considered that all of these cards that I have taken testimony with respect to in this matter will be offered subject to that objection.

Mr. McCLANAHAN.—Subject to that objection and subject to my objection that you reoffer them.

Mr. FRANK.—Oh, yes, I understand.

Q. I now show you the card of September 16, being a part of Adamson Exhibit No. 3, and ask you if that is a card made out by you at that time.

(Testimony of John Benson.)

Mr. McCLANAHAN.—The same objection.

A. That is my handwriting and my card.

Mr. FRANK.—Q. Passed in to the office as correct at that time? A. Yes, sir.

Q. I now show you the card of September 21, being a part of Adamson Exhibit No. 3, and ask you if that is your card made out by you in the manner in which you have already testified, and passed in to the office as correct at that time.

Mr. McCLANAHAN.—The same objection.

A. That is my card, made out by myself.

Mr. McCLANAHAN.—It is understood that the objection offered to the cards when they were offered by Adamson applies to each offer now, and I make the further objection that the cards have already been identified by Adamson and form a part of his exhibits; on the ground that they are cumulative and on the ground that it is encumbering the record by the further examination of the cards.

Mr. FRANK.—Yes. Take the witness.

Cross-examination. [709—620]

Mr. McCLANAHAN.—Q. I show you the cards of September 17 and September 21. Can you see them, Mr. Benson? A. Yes, sir.

Q. On the former you will note some check marks at the right. A. Yes.

Q. On the latter there are no check marks, as you see. A. I note that.

Mr. FRANK.—Yes, there are.

Mr. McCLANAHAN.—Where are they?

Mr. FRANK.—They are the check marks.

(Testimony of John Benson.)

Mr. McCLANAHAN.—Q. Mr. Benson, do you recognize any check marks on the card of September 21? A. Oh, yes.

Q. Where are they? A. There—no, sir.

Q. Can you explain why check marks are found on the card of September 17 and not on the card of September 21? A. No, I cannot explain it.

Q. Do you know who put those there?

A. The assistant foreman I should think; that is his business.

Q. That is his business. You don't know why he did not check the one of September 21?

A. No; I have not the slightest idea.

Q. When you finished with these cards in the evening you put them in a box, did you? A. Yes.

Q. And they pass in to the office?

A. Pass in to the office.

(A recess was here taken until 2 P. M. [710—621])

AFTERNOON SESSION.

[Testimony of Donald Stimmel, for Libelant.]

DONALD STIMMEL, called for the libelant, sworn.

Mr. FRANK.—Q. Stimmel, were you working for the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. Did you keep a record of your time that you worked on each job? A. Yes, sir.

Q. Did you put it down upon time-cards?

A. Yes, sir.

Q. I show you a card of August 29th, being part

(Testimony of Donald Stimmel.)

of "Adamson Exhibit No. 8," and ask you if that is a time-card made out by you at that time.

Mr. McCLANAHAN.—I object to the question upon the ground that the card has already been identified and verified and put into evidence under "Adamson Exhibit No. 4," and on the ground that it is cumulative and encumbering the record.

A. Yes, sir.

Mr. FRANK.—Q. Is that in your own handwriting? A. Yes, sir.

Q. How did you get your job numbers?

A. Each piece of machinery that comes in from the outside is marked by the foreman at the clock entrance; he puts it on each piece of machinery.

Q. How did you keep your hours worked?

A. I had an old time-card, and when I began the job on a piece—each piece is numbered—I put the hour I started in on, and when I finished, I put it on the old time-card. Then I figured that time when I begin and when I ended and put it on my regular time-card.

Q. On this one here I notice that there is a change in the hours worked from 5 hours to 4 hours on one of the numbers. [711—622] How would that be done?

A. It must have been a mistake in figuring out my time on the old card.

Q. What do you mean by figuring out your time?

A. Adding up from hour to hour.

Q. How did you put down your time on this other memorandum that you had? Would you put it

(Testimony of Donald Stimmel.)

down so many hours, or would you put down the time— A. The time I started.

Q. The time you started and the time you ended?

A. Yes, sir, and then figured from hour to hour. From the time I started until the hour I finished.

Q. When would you make that calculation?

A. When would I make it?

Q. Yes, would you make it when you finished or in the evening when you entered up your card?

A. When I finished that job.

Q. What is there about that? Who would call your attention to that mistake?

A. The timekeeper would call my attention. He would call the foreman's attention and the foreman would call me to him, and then I would have to find out the regular time.

Q. Find out where the mistake was?

A. Find out where the mistake was, yes.

Q. I now show you a card of August 30th, part of "Adamson Exhibit No. 8" and ask you if that is in your handwriting, made out at that time, and whether you knew it to be correct at the time you handed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, it is my writing.

Mr. FRANK.—Q. I now show you a card of August 31st, being part of the same exhibit, and ask you if that is your *card* [712—623] *out* at that time, and whether you knew it to be correct at the that that you handed it in.

Mr. McCLANAHAN.—The same objection.

(Testimony of Donald Stimmel.)

A. Yes, sir.

Mr. FRANK.—Q. I notice that there is a change there of hours from 10 to 12; how was that change made?

A. I guess my figuring out my time wrong.

Q. I know, but how was the change made?

A. The change was made through the timekeeper by the foreman.

Q. Did he call your attention to it?

A. Yes, sir.

Q. I now show you a card of September 1st, part of "Adamson Exhibit 8" and ask you whether that is your own handwriting, made out by you at the time and know to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. On that card I notice on the first hour's work, two numbers, one 8 and one 9, but the "9" is not added in. Now can you offer any explanation of that?

A. Yes. I forgot to rub out that "9" on that card, and the timekeeper told me about that—told the foreman, and the foreman notified me.

Q. It is not added in?

A. No, sir, it should have been rubbed out because 8 and 3 is 11. It could not be 9 and 3.

Q. I show you a card of September 2d, part of "Adamson Exhibit No. 8," and ask you if that is in your handwriting, made out at that time, and whether you knew it to be correct at the time you

(Testimony of Donald Stimmel.)

handed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you a card of September 3d, and [713—624] ask you if that is in your handwriting, made out at that time, and whether you knew it to be correct at the time you handed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you a card of September 8th, and ask you if that is in your handwriting, made out at that time, and whether you knew it to be correct at the time you handed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you a card of September 9th, and ask you if that is in your handwriting, made out at that time, and whether you knew it to be correct at the time you handed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you a card of September 11th, and ask you if that is in your handwriting, made out at that time, and whether you knew it to be correct at the time you handed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you a card of September 12th, and ask you if that is in your handwriting, made out at that time and whether you knew it to

(Testimony of Donald Stimmel.)

be correct at the time you handed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you a card of September 13th and ask you if that is in your handwriting, made out at that time, [714—625] and whether you knew it to be correct at the time that you handed it in.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. On September 13th at 8:30 means what? Look at that (handing).

A. That means 8 and a half hours.

Cross-examination.

Mr. McCLANAHAN.—Q. I understand that you had extra cards that you made your first entry on?

A. Yes, sir.

Q. Those are what you called in your direct examination old cards? A. Yes, sir.

Q. What did you put on those old cards?

A. The time, the job number, of the job we worked on, the time we begin it and the time we finish it. Then we figure out the time from when we begin and finish, and put on our regular card that we turn in to the timekeeper.

Q. When did you do that figuring?

A. I was working on the night shift.

Q. When would you do the figuring? I understand you to say you put on the old card the time you commenced and the time you finished on a particular job; then you said you did the figuring and put

(Testimony of Donald Stimmel.)

the result on the regular time-card that you turned in. When would you do the figuring?

A. When I got done with the job.

Q. Not wait until the night? A. No, sir.

Q. So that you were using two sets of cards during the day, an old card and this card?

A. A piece of paper that I would call a card.

Q. A piece of paper was it? A. Yes, sir.

Q. Not a card like this (pointing)?

A. A piece of paper. Sometimes a card like that and sometimes [715—626] a piece of paper.

Q. What was the object of keeping track of this time on a piece of paper?

A. Because we have so many different numbers sometimes in the shop. A lot of work comes in and sometimes we may have 6 or 8 different numbers on the card, and sometimes we would not.

Q. How would you determine the time?

A. Determine the time?

Q. Determine the time.

A. I had a watch, and I figured it out.

Q. You had a watch, did you? A. Yes, sir.

Q. And you would look at your watch?

A. Yes, sir.

Q. And after you had made your computation you would put it on these regular time-cards and turn them in to the office? A. Yes, sir.

Q. Then I suppose if there was any mistake, the next day the timekeeper would call your attention to it?

A. He calls the foreman's attention to it and the

(Testimony of Donald Stimmel.)

foreman calls us.

Q. Would you have your talk with the foreman about a mistake or with the timekeeper?

A. With the foreman.

Q. You would not talk with the timekeeper?

A. The three of us would be together talking.

Q. Now, I call your attention to your card of August the 29th, where there was a change in your time. The change is in ink, is it not?

A. Yes, sir.

Q. That ink change is made by the timekeeper?

A. Yes, sir.

Q. Will you explain how the timekeeper knew to make the change? A. How he knew?

Q. Yes. A. 8 and 5 would not be 12.

Q. No. 8 and 5 are 13, and that is what you had originally on the card, 8 and 5? A. Yes, sir.

[716—627]

Q. But the timekeeper changed your 5 to 4. How did he know you had made a mistake in one hour in working on that job?

A. He must have gone to the foreman, and the foreman asked me to rectify it.

Q. How could you have made a mistake?

A. Figuring out my card wrong, my old card; you count from hour to hour and sometimes you might make a mistake.

Q. This card goes in to the office with the 5 hours on there, does it not? A. Yes, sir.

Q. How does the timekeeper know that that "5" ought to be "4," so as to lead him to come to the

(Testimony of Donald Stimmel.)

foreman and say that you have made a mistake?

A. By the other card. Maybe I punched out just 12 hours and I figured an hour extra by my regular time-card.

Q. You mean the clock card?

A. Yes, sir, the clock card.

Q. That is your explanation, is it, of how the time-keeper learns that error? A. Yes, sir.

Q. I hand you your card of August 31st where there is a change from 11½ to 12 hours. The change is in the handwriting of the timekeeper, is it not?

A. Yes, sir.

Q. Do you make the same explanation of that as you did as to the card of August 29th?

A. Yes, sir.

Q. That is, that your clock card shows 12 hours, whereas your time shown on the card put down by you was only 11½ hours. A. Yes, sir, 11½.

Q. That is correct, is it? A. Yes, sir.

Q. Does the clock card show the time that you work on a particular job? A. No, sir.

Q. Does not this card purport to show the time that you worked [717—628] on that particular job?

A. Yes, sir.

Q. And that time was 11½ hours? A. Yes, sir.

Q. Then how does the clock card assist the time-keeper in changing that to 12 hours?

A. What is that again?

Q. Read the question, Mr. Reporter.

(The Reporter reads the question.)

A. I must have figured it out wrong.

(Testimony of Donald Stimmel.)

Q. That is all the explanation you can make of it?

A. Yes, sir.

Q. I show you your card of September 9th, where there is a change in your time from 4 hours to 3½. Is that change made in the handwriting of the timekeeper? A. Yes, sir.

Q. Is your explanation of that the same as for the others? A. Yes, sir.

Q. That is, it was the clock card—your clock card?

A. My card, yes.

Q. Your clock card that enabled the timekeeper to discover that instead of working 4 hours you worked 3½ hours on that job number.

A. Yes, sir.

Mr. FRANK.—He did not say that.

Mr. McCLANAHAN.—I beg pardon. The record will show that.

Mr. FRANK.—What he said was that the clock card showed that he punched more or less hours than his card showed. He said particularly it would not show that he had worked any particular time on any particular number.

Mr. McCLANAHAN.—Mr. Bennett, please read me the question and the answer of the witness.

(The Reporter reads the question and answer.)

Mr. FRANK.—I see where you and I differ. You are assuming that he said something before that he did not say. [718—629]

Mr. McCLANAHAN.—The record will bear me out.

Mr. FRANK.—That may be your cross-examina-

(Testimony of Donald Stimmel.)

tion, but it is not a decent way of cross-examining.

Mr. McCLANAHAN.—Q. Did I take advantage of you in any way, my boy, then?

Mr. FRANK.—He does not know whether you did or not.

Mr. McCLANAHAN.—Let him answer. I do not propose to have it charged to me that I am not conducting my cross-examination decently. I resent that, Mr. Frank.

Mr. FRANK.—I cannot help that.

Mr. McCLANAHAN.—Q. Did I take advantage of you in any way, my boy?

A. I could not say either way.

Mr. FRANK.—You are not asked to say either way.

Mr. McCLANAHAN.—Read the question to the witness again and we will see whether any advantage is taken. (The Reporter reads the question.) Do you understand the question? A. Yes, sir.

Q. Is that not correct? A. Yes, sir.

Redirect Examination.

Mr. FRANK.—Q. Mr. Stimmel, you have been very particularly asked “is that not correct?” Now, let me ask you this: On your cross-examination you were asked how it was that the timekeeper could tell that you made a mistake in your number of hours by the clock card, were you not? A. Yes, sir.

Q. And how is it that he can tell? What did you say? A. How he can tell, did you say?

Q. That you made a mistake in your number of hours. For instance, like on August 29th, by com-

(Testimony of Donald Stimmel.)

paring it with the clock card.

A. I put down how many hours on my time-card and when I punched out it would not show that much on the time-card. [719—630]

Q. That is the idea? A. Yes, sir.

Q. By means of the clock card do you want to be understood as saying that he would know on which particular job you put how many hours, or simply that the total number of hours were too many or too little for the time punched out on the clock card, which is it?

A. Too little punched out on the time clock.

Q. On the clock card?

A. On the clock card, yes.

Q. Get my question in mind so that you may know what we are talking about: did you mean to be understood as saying which you did say when the question was put that way to you, that the clock card enabled the timekeeper to know on which of these three numbers, referring to the card of September 9th, which of these three numbers you had put on too much or too little time. Is that what you meant? Read the question, Mr. Reporter, so that he will understand it.

(The Reporter reads the question.)

A. They must have figured on that one job here of my figuring and my time.

Q. Answer the question. If you do not understand the question, say so. What I want to get at is whether or not you meant to be understood as saying that the clock card which showed the total number of hours worked told the timekeeper on which one of

(Testimony of Donald Stimmel.)

those numbers you had overcharged.

A. No, sir, it did not tell the timekeeper.

Q. That is the question that was asked you by Mr. McClanahan awhile ago when you said yes.

A. You do not put the clock on every job number.

Q. Then you did not understand what you were talking about?

A. You punch it three times a day, that is all.
[720—631]

Q. I understood you further to say that when he came there, and the clock card showed there was some error, he talked it over with you and the foreman, is that right? A. Yes, sir.

Q. And the three of you rectified it according to the fact, is that right? A. Yes, sir.

Recross-examination.

Mr. McCLANAHAN.—Q. Does the clock card show the hour that you commenced work, or the hour that you entered the shop?

A. The hour that you enter the shop.

Mr. FRANK.—Q. You go right to work, don't you?

A. No, sir; we wait until the whistle blows—half-past 7.

[Testimony of John B. Pennycott, for Libellant.]

JOHN B. PENNYCOTT called for the libellant, sworn.

Mr. FRANK.—Q. Mr. Pennycott, you were working for the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. In what capacity?

(Testimony of John B. Pennycott.)

A. Machinist, lathe-hand.

Q. When working in that capacity, did you keep track of your time on each job? A. I did, sir.

Q. How did you get your job numbers?

A. The job numbers were always written on the job, and if I worked from a drawing, it was on the drawing.

Q. How did you keep track of your time?

A. By the clock.

Q. That is not a complete answer to my question, Mr. Pennycott.

A. If I started a job at 9 o'clock, and ended at 12 o'clock, I put down "3 hours" on my lathe. I have a special place in my lathe where I keep the time of jobs, and in the evening I add up my time, and put it down on the time-card.

Q. Did you note the time on your lathe when you began? [721—632] A. Yes, sir; I did.

Q. And the time when you ended? A. Yes, sir.

Q. I show you a card under date of August 30th, part of "Adamson Exhibit No. 47," and ask you if that is a card kept by you at that time.

Mr. McCLANAHAN.—I object to the question upon the ground that the card has already been identified and verified and put into evidence under "Adamson Exhibit No. 47," and on the ground that this is cumulative and encumbering the record.

A. This is my handwriting.

Mr. FRANK.—Q. Was that card kept in the manner you have testified to? A. Yes, sir.

Q. And known to be correct at the time that you

(Testimony of John B. Pennycott.)

handed it in? A. Yes, sir.

Q. Now, I show you a card of August 31st, part of "Adamson Exhibit No. 47," and ask you if that is a card kept by you at that time.

A. That is my card. I did not make that ink change.

Q. You did not make the ink change?

A. No, sir.

Mr. McCLANAHAN.—We make the same objection.

Mr. FRANK.—Q. Look at that and see whether or not that is a change, or simply putting in a different form what you had in there. What is underneath that ink? It was 10:40, was it not?

A. That I don't remember now, if it was 10:40.

Q. Can you make it out? A. He has here, 10¹/₂.

Q. At any rate you had something there that that is written over? A. Yes, sir.

Q. The color would show that there was something there, a fraction of an hour there.

A. Yes, sir; if I had 10:40 there I had more than what I was supposed to put down. He changed it to 10¹/₂. [722—633]

Q. When changes of that sort were made, how would they be made?

A. In the office, by the timekeeper. We have a time clock, and when we go out we punch it. I probably thought it was 10:40. I worked 10 hours and 40 minutes, and the clock registered 10 hours and a half.

Q. Would he consult you about changes of that

(Testimony of John B. Pennycott.)

sort? A. Yes, sir.

Q. And between you you verified it. When he consulted you, what did you do?

A. If he was right, I would say it was right.

Q. I understand you to say that is all in your handwriting except the ink changes. A. Yes, sir.

Q. I now show you a card under date of September 1st, part of the same exhibit, and ask you if that is a card kept by you at that time, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. Is that in your handwriting?

A. Yes, sir; that is my handwriting.

Q. I now show you a card of September 2d, the same exhibit, and ask you if that is a card kept by you at that time in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. That is correct.

Mr. FRANK.—Q. I pass you a card of September 4th, the same exhibit, and ask you if that is a card kept by you at that time in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—We make the same objection. [723—634]

A. That is correct.

Mr. FRANK.—Q. I pass you a card of September

(Testimony of John B. Pennycott.)

5th, the same exhibit, and ask you if that is a card kept by you at that time, in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir; that is correct.

Mr. FRANK.—Q. I pass you a card of September 6th, the same exhibit, and ask you if that is a card kept by you at that time, in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir; that is my card.

Mr. FRANK.—Q. I pass you a card of September 7th, the same exhibit, and ask you if that is a card kept by you at that time, in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is correct. That is my card.

Mr. FRANK.—Q. When you say it is your card do you mean it was kept and entered up in the same way as you have testified to? A. Yes, sir.

Q. I show you a card of September 9th, the same exhibit, and ask you if that is a card kept by you at that time, in your own handwriting, in the way you have already testified, and passed it in to the office as correct?

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is correct.

Mr. FRANK.—Q. I show you a card of September

(Testimony of John B. Pennycott.)

10th, the same exhibit, and ask you if that is a card kept by you at that [724—635] time, in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you a card of September 11th, the same exhibit, and ask you if that is a card kept by you at that time, in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is my card.

Mr. FRANK.—Q. I now pass you a card dated September 12th, “Adamson Exhibit No. 46,” and ask you if that is a card kept by you at that time, in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is my card.

Mr. FRANK.—Q. I now pass you a card of September 13th, “Adamson Exhibit No. 46,” and ask you if that is a card kept by you at that time, in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is my card.

Mr. FRANK.—Q. I now pass you a card of September 14th, the same exhibit, and ask you if that is a card kept by you at that time, in your own handwriting, in the way you have already testified, and

(Testimony of John B. Pennycott.)

passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. That is my card. [725—636]

Mr. FRANK.—Q. I now pass you a card of September 15th, the same exhibit, and ask you if that is a card kept by you at that time, in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. That is my card, but I did not make those ink changes there. I cannot make out what “11¼” is there.

Mr. FRANK.—Q. You cannot make out what?

A. What “11¼” is or “11½” is.

Q. That is your overtime, is it not? You get time and a half for overtime? A. Yes, sir, correct.

Q. “5325”; that was an ink change also?

A. That was a job number for turning pintles, 5325. I thought it was the old number. I put it down and the timekeeper had a different number for that and he changed it to 5325.

Q. After consulting you? A. Yes, sir.

Q. That is turning bushings and pintles for the rudder? A. Yes, sir.

Q. What is this scroll of some sort at the top here under “hours worked”; is that something that was done by you? A. Yes, sir.

Q. “11½”; is that in your handwriting?

A. 11½ is in my handwriting.

Q. I hand you a card of September 16th, the same exhibit, and ask you if that is a card kept by you at

(Testimony of John B. Pennycott.)

that time in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. That is correct. [726—637]

Mr. FRANK.—Q. I hand you a card of September 17th, the same exhibit, and ask you if that is a card kept by you at that time, in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I hand you a card of September 18th, "Adamson Exhibit No. 46," and ask you if that is a card kept by you at that time in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I hand you a card of September 22d, the same exhibit, and ask you if that is a card kept by you at that time, in your own handwriting, in the way you have already testified, and passed it in to the office as correct.

Mr. McCLANAHAN.—The same objection.

A. That is my card, but there is a change there in the number.

Mr. FRANK.—Q. How would that change be made?

A. By the timekeeper. I made a mistake in the number.

(Testimony of John B. Pennycott.)

Q. Did he point it out to you, and consult with you about it? A. Yes, sir.

Q. On the card of September 18th, I see there is a change of from 3 to 4 on a number. Is that change made in your own handwriting?

A. Yes, sir, that is mine.

Q. It was done before you passed the card in?

A. Yes, sir.

Cross-examination.

Mr. McCLANAHAN.—Q. You kept your time on the lathe, did you, Mr. Pennycott?

A. I did. I marked it down on the lathe. [727—638]

Q. The time of commencing, and the time of quitting? A. Yes, sir.

Q. Then at night you made your calculations as to how much time you worked, and you put it on the card? A. Yes, sir.

Q. On your card of September 22d, there is a change in the job number from 5401 to 5398. How did that happen?

A. I don't remember, but whenever there was any mistake in the number the timekeeper always came to me, and asked me about it, and he made the change.

Q. Did he make the change referring to hours?

A. Yes, sir, he made that change there. That is the "Hilonian" number.

Q. You would take the job number from the piece itself where it was painted on, or else where it was a drawing you would take it from the drawing?

A. Yes, sir.

(Testimony of John B. Pennycott.)

Q. So that 5401 was the job number on the piece or on the drawing?

A. I don't remember whether that number was on the piece at the time.

Q. You would not have any other means of putting a number on the card except from the piece, or the drawing, would you?

A. There are jobs that I do that the bench hands have that the numbers are erased, and when I take the job they give me the number of the job.

Q. So it may be that this was a job number that was handed to you by word of mouth from a bench hand? A. Probably.

Q. Where would the bench hand get it?

A. I don't know.

Q. Do you know how the timekeeper would know that there was [728—639] a mistake in the job number? A. No, sir, I don't know.

Q. When this work was going on, you knew the "Hilonian" job number, didn't you? A. I did.

Q. Do you know what it is now? A. No, sir.

Q. Would the examination of these cards refresh your memory at all as to what it was?

A. I don't know; it has been so long ago and I have had so many jobs.

Q. I hand you the card of August 31st, with two numbers, 5336 and 5295 on it. Do you remember which was the "Hilonian" number? A. No, sir.

Q. How did the timekeeper know how to check up your time? A. That I don't know.

Q. You say there were cases where he convinced

(Testimony of John B. Pennycott.)

you that you had made a mistake?

A. He knew that, but I don't know how. He has a record of his own in the office.

Q. Of the time you worked on a particular job?

A. Yes, sir; after he takes them from the card he has a record of the job.

Q. I am talking of the time you worked on a particular job. He has not any record in the office except your time-cards?

A. That is all. That mistake is there are several job numbers on the "Hilonian." I believe fourteen something was an extra job, and I put it on 5401.

Q. I am not referring to that card now. I am referring to your time, how he knew to correct your time. I am looking now at the card of August 31st, where he has corrected your time.

A. By the time-clock.

Q. By the time-clock? A. Yes, sir.

Q. Does the time-clock show him the time that you work on a particular job number?

A. No, sir, it shows the time that I leave. [729—640]

Q. And the time you come?

A. The time I come.

Q. The time you enter the factory, the works?

A. Yes, sir.

Q. Now, Mr. Pennycott, can you tell me why on this card of August 31st, on which you have charged 5336 with 10 hours and 40 minutes, and on which the timekeeper has changed that to 10 hours and a half, why he made that deduction of 10 minutes from that

(Testimony of John B. Pennycott.)

number, and not from 5295, which appears on the same card?

A. Well, he probably came up to me, I don't remember, but he probably came up to me in the morning, as he always does when there is a mistake, and I looked over my time in my lathe and found it was 10 minutes too much on the 10 $\frac{1}{2}$.

Q. I see. That is, you are liable to make mistakes in computing your time? A. Yes, sir.

Q. And this card here of August 31st is an illustration of it, or it may be an illustration?

A. It may be.

Redirect Examination.

Mr. FRANK.—Q. On this card of September 22d, on which the job number is changed from 5401 to 5393, what is the article worked on there?

A. Fitting reverse shaft for steamer "Hilonian."

Q. That would indicate to the timekeeper and to you, too, would it not, what job number should be on it? A. It should.

Q. You were asked if you knew the "Hilonian" job numbers at the time you were working on it, and you said yes. How did it happen that you happened to know the "Hilonian" job numbers at that time?

A. That I knew them.

Q. Yes.

A. Because they were given to me on the work that was handed to me, and the drawings.

Q. I understand that, but the question purported to ask you whether you knew them, and had them in mind as numbers belonging [730—641] to the

(Testimony of John B. Pennycott.)

“Hilonian” independent of the piece on which it was marked, or the drawing. Did you mean to say you knew the job numbers independent of the piece on which it was marked, or the drawing on which it was marked? A. I do not understand you.

Q. The question, as I understood it, was intended to elicit from you as to whether or not you carried in your mind the job numbers that belonged to the “Hilonian”?

A. No, sir, not always. I could not keep them in my mind.

Q. When you said you knew the job numbers at that time, what did you mean?

A. That I knew when I was putting them down, from the numbers that were on the work.

[Testimony of John Mello, for Libelant.]

JOHN MELLO, called for the libelant, sworn.

Mr. FRANK.—Q. Were you at work in the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. As a machinist? A. Yes, sir.

Q. As such did you keep track of your time while you were working there? A. Yes, sir.

Q. How did you keep track of your time?

A. Well, when there was a long job I generally kept it in memory. When it was a short job I generally marked it down on my machine.

Q. That is, did you note the time when you began?

A. Yes, sir.

Q. And when you ended? A. Yes, sir.

Q. By a long job what do you mean?

(Testimony of John Mello.)

A. When I knew it was a job that would take 3 or 4 days I would simply work all day and mark what time it was at night.

Q. You knew you were working on no other job during the day? A. Yes, sir.

Q. When there were several jobs during the day you marked each job down on your lathe?

A. Yes, sir. [731—642]

Q. I will show you a card of September 13th, part of Adamson Exhibit No. 48, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested?

Mr. McCLANAHAN.—I object to the question on the ground that the card has already been identified, and verified, and put into evidence under Adamson Exhibit No. 48, and on the ground that this is cumulative and incumbering the record.

A. That is my handwriting; that is my card.

Mr. FRANK.—Q. Kept in the manner in which you have testified? A. Yes, sir.

Q. I will show you a card of September 19th, part of Adamson Exhibit No. 48, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is my card.

Mr. FRANK.—Q. I will show you a card of September 20th, part of Adamson Exhibit No. 48, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested?

Mr. McCLANAHAN.—The same objection.

(Testimony of John Mello.)

A. Yes, sir.

Mr. FRANK.—Q. I will show you a card of September 21st, part of Adamson Exhibit No. 48, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I will show you a card of September 26th, part of Adamson Exhibit No. 48, and ask you if that is in your [732—643] own handwriting, and kept by you in the manner you have just suggested?

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I will show you a card of August 28th, part of Adamson Exhibit No. 49, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I will show you a card of August 27th, part of Adamson Exhibit No. 49, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is mine.

Mr. FRANK.—Q. I will show you a card of August 30th, part of Adamson Exhibit No. 50, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

(Testimony of John Mello.)

A. Yes, sir, that is mine.

Mr. FRANK.—Q. I will show you a card of August 31st, part of Adamson Exhibit No. 50, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is mine.

Mr. FRANK.—Q. I will show you a card of September 2d, part [733—644] of Adamson Exhibit No. 50, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is mine.

Mr. FRANK.—Q. I will show you a card of September 10th, part of Adamson Exhibit No. 50, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I will show you a card of September 4th, part of Adamson Exhibit No. 50, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is mine.

Mr. FRANK.—Q. I will show you a card of September 5th, part of Adamson Exhibit No. 50, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

(Testimony of John Mello.)

A. That is mine.

Mr. FRANK.—Q. I will show you a card of September 6th, part of Adamson Exhibit No. 50, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir. [734—645]

Mr. FRANK.—Q. I will show you a card of September 8th, part of Adamson Exhibit No. 50, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I will show you a card of September 9th, part of Adamson Exhibit No. 50, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is mine.

Mr. FRANK.—Q. I will show you a card of September 10th, part of Adamson Exhibit No. 50, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I will show you a card of September 11th, part of Adamson Exhibit No. 50, and ask you if that is in your own handwriting, and kept by you in the manner you have just suggested.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir. [735—646]

(Testimony of John Mello.)

Cross-examination.

Mr. McCLANAHAN.—Q. No one checked your cards over, did they, Mr. Mello?

A. How do you mean?

Q. Checked the time, the job numbers and work done. You don't know what I mean by "checked over"?

A. No, sir.

Q. No one looked them over to see if there was any mistakes?

A. They did look them over, yes.

Q. Who does?

A. Mr. Adamson at the time.

Q. At the time?

A. Yes, sir.

Q. Did you turn them in to Mr. Adamson?

A. No, sir. I turned them in to the office.

Q. How do you know he looks them over?

A. Well, that is what they told me, he looks them over.

Q. You don't know?

A. Not exactly.

Q. When there is any trouble, or do you have any trouble about your time being correct, for instance?

A. Sometimes I do.

Q. Who do you talk with about it?

A. The timekeeper comes out and finds out how did I get that number.

Q. I am not talking about the number, but the time you worked on them. Did you ever have any trouble about that?

A. Yes, in the numbers.

Q. No, the time you work on a job.

Mr. FRANK.—The number of hours.

Mr. McCLANAHAN.—Q. The number of hours that you work on a job. Did you ever have any trouble about that?

(Testimony of John Mello.)

A. Not in the number of hours.

Q. That is, the number of hours you put down is always taken as correct?

A. That is, on the jobs. [736—647]

Q. Yes.

A. Well, there is; sometimes there is a difference in the numbers of the jobs.

Q. I am not talking about that. I am talking about the number of hours that you work on jobs. I say that time is always taken as correct, the time you have on your card?

A. What is on my card?

Q. It is always taken as correct? A. Yes, sir.

Q. You never have any trouble about that?

A. I never have any trouble.

Q. I hand you the card of August 31, and ask you in whose handwriting are the ink figures on that?

A. Well, I could not tell you whose handwriting it is.

Q. It is not yours? A. It is not mine.

Q. Don't you see there that your 18½ hours is reduced to 18 hours; that is, the half hour is stricken out?

Mr. FRANK.—Are you complaining about that, Mr. McClanahan?

A. Well, I will tell you, sometimes when I finish up my time, provided I work all night, I figure it up you know, and I make a mistake and put a half hour longer, and then the timekeeper corrects it.

Q. Sometimes you are liable to make a mistake in your time, and it is corrected? A. That is right.

(Testimony of John Mello.)

Q. And that card of August 31 is an illustration of the mistake that you probably made?

A. Of the mistake, yes.

Q. Now, where did you get your job numbers?

A. Generally on the piece of work as it comes in.

Q. Well, suppose it is not marked on the piece of work? A. Generally ask the foreman, then.

Q. Suppose you do not ask the foreman?

A. A pretty hard matter [737—648] then to get it.

Q. Do you ever do without getting it?

A. Without getting the number?

Q. Yes. A. I always get a number for it.

Q. Before you commence work?

A. Well, sometimes I will commence and afterwards I will get the number.

Q. And put it on your card?

A. And put it on my card, and mark it on the job.

Q. Do you ever send in a card that has no job number on? A. I have sometimes did it.

Q. So you sometimes do work on jobs the number of which you do not know?

A. I do not know that number.

Q. Sometimes.

A. Especially when you are working at night and there is no foreman.

Q. For instance, the card of September 8th which I hand you, where the last job number is inserted in red ink is an illustration of it, is it not?

A. That is it, when you don't have the number.

Q. That is, you work on that work and complete

(Testimony of John Mello.)

it without knowing the number, and it was afterwards inserted by the timekeeper? A. Yes, sir.

Q. Now, did you ever do work where you don't put down the article that you are working on?

A. Yes; sometimes I do.

Q. I hand you the card of September 10th and ask you if that is an illustration of your doing work and not putting down the article that you are working on? A. "Balance cylinder."

Q. That is not in your handwriting, "balance cylinder"? A. Yes, that is my handwriting.

Q. The body of the card is in your handwriting?

A. Yes. [738—649]

Q. Jno. Mello—

A. Jno. C. Mello is my handwriting.

Q. And the "balance cylinder" too?

A. Yes, sir.

Q. They do not look alike to me; that is the reason I called your attention to them. That is all.

[Testimony of Fenton K. Young, for Libelant.]

FENTON K. YOUNG, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Young, you were working in the United Engineering Works in August and September of 1909?

A. Yes; I was during the time of this job.

Q. Talk up loud, so that we will know what you are talking about. How did you keep track of your time, Young?

A. Well, on a separate slip of paper or else on my time-card.

(Testimony of Fenton K. Young.)

Q. How would you note the time that you had been working on the job? A. The clock.

Q. The clock? A. Yes.

Q. And what would you do when you noted the clock with reference to making a record of it?

A. Either get the exact time, when I start and when I finish and then either put it on the separate slip or else on my card.

Q. Or on your card?

A. When the job was finished.

Q. When would you put it on a slip and when would you put it on the card?

A. Put it on the slip while I was working and at night you put it on your card.

Q. Now, I show you a card of August 28th, being a part of Adamson Exhibit No. 59, and ask you whether or not that is a card in your own handwriting and made out in the manner in which you have indicated. [739—650]

Mr. McCLANAHAN.—I object to the question on the ground that the card has already been identified by Adamson and forms a part of his Exhibit No. 59; on the ground that it is cumulative, and on the ground that it is encumbering the record by the further examination of the card.

A. Yes, sir.

Mr. FRANK.—Q. I hand you now your card of September 1, being a part of Adamson Exhibit No. 58, and ask you whether or not that is a card in your own handwriting and made out in the manner in which you have indicated.

(Testimony of Fenton K. Young.)

Mr. McCLANAHAN.—The same objection.

A. That is the same.

Mr. FRANK.—Q. I see here some changes, and I ask you whether or not there are changes in your own handwriting?

A. Which? Those ink marks here?

Q. No, those here (pointing). Yes, those are my own.

Q. They are in your handwriting? A. Yes.

Q. That is, in the hours? A. Yes, sir.

Q. Made at the time before the card was passed in? A. Yes, sir.

Q. I now show you a card dated September 2, being part of Adamson Exhibit No. 58, and ask you whether or not that is a card in your own handwriting and made out in the manner in which you have already indicated?

Mr. McCLANAHAN.—The same objection.

A. That is my own.

Mr. FRANK.—Q. I now show you a card dated September 3d, being part of Adamson Exhibit No. 58, and ask you whether or not that is a card in your own handwriting, and made out in the manner in [740—651] which you have already indicated?

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. Just look at that first number in ink “2” and tell us what the number is underneath the “2.” A. It is a 2.

Q. It is a 2 also? A. Yes.

Q. So that is no change, only made plainer?

(Testimony of Fenton K. Young.)

A. Yes, sir.

Q. I now show you a card dated September 5, being part of Adamson Exhibit No. 58, and ask you whether or not that is a card in your own handwriting, and made out in the manner in which you have already indicated?

Mr. McCLANAHAN.—The same objection.

A. Yes, the same.

Mr. FRANK.—Q. I now show you a card dated September 6th, being part of Adamson Exhibit No. 58, and ask you whether or not that is a card in your own handwriting, and made out in the manner in which you have already indicated.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—On that September 6th I notice a change in the “2” in the first job number there; was that done by you, in your handwriting?

A. I don’t know. I could not tell you that; just a change of the number, that is all. I don’t remember.

Q. You don’t remember? You don’t know whether that is your own handwriting or not?

A. That might have been made plainer by the timekeeper.

Q. Well, you don’t know whose number that is?

A. No, sir.

Q. I now show you a card dated September 7th, being a part of [741—652] Adamson Exhibit No. 58, and ask you whether or not that is a card in your own handwriting, and made out in the manner in

(Testimony of Fenton K. Young.)

which you have already indicated.

Mr. McCLANAHAN.—The same objection.

A. That is mine except this one here, this job number is changed.

Q. Whose change is that, do you know?

A. The timekeeper.

Q. When the timekeeper made a change like that would he consult you about it? A. Yes, sir.

Q. And you say the rest is in your handwriting?

A. Yes, sir.

Q. The change from 12½ to 11½, is that your own handwriting?

A. That is figuring the time; that is where we figured the time, the overtime.

Q. No, but the 2 is reduced to 1, isn't it?

A. That is my own handwriting.

Q. I now show you a card dated September 10th, being a part of Adamson Exhibit No. 58, and ask you whether or not that is a card in your own handwriting, and made out in the manner in which you have already indicated?

Mr. McCLANAHAN.—The same objection.

A. There is a change here by the timekeeper, that is all.

Mr. FRANK.—Q. The same way that you have already testified to? A. Yes, sir.

Q. Did he consult you about it? A. Yes, sir.

Q. I now show you a card dated September 11th, being a part of Adamson Exhibit No. 58, and ask you whether or not that is a card in your own handwriting, and made out in the manner in which you

(Testimony of Fenton K. Young.)

have already indicated.

Mr. McCLANAHAN. — The same objection.
[742—653]

A. The same in regard to this number; that is all.

Q. How about the 6? The number that you refer to is the red ink number. A. Yes.

Q. How about the 6 in the hours worked; whose handwriting is that? A. That is mine.

Q. Your own? A. Yes, sir.

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Young, you have said that the timekeeper would consult you when he made a change in the job number? A. Yes.

Q. Why would he do that?

A. Well, if I would get the number wrong, if he knew it was not the right number, or something like that, on the part of the engine we worked on, he would come and ask me and say there was nothing under that heading.

Q. Why would he consult you about it? What interest did you have in the job number?

A. He would do that to clear himself. If he had a job for a certain thing under a certain number and there was nothing on that job to correspond with what I had on my card he would want to know what it was, and then I would tell him and he would say that was the wrong number.

Q. How would you happen to get the wrong number? A. By misunderstanding.

Q. With whom?

A. If I should happen to make a mistake in copy-

(Testimony of Fenton K. Young.)

ing or something like that.

Q. Now, I show you your card of September 3d, where there appears Nos. 5320 and 2205 with a bracket after and under the hours worked "2." Does that apply to both those numbers?

A. I don't know; I have forgotten. [743—654]

Q. You don't know how long you worked on 5320?

A. Those two jobs may be under the same heading, and one be numbered from the other side, the other shop.

Q. What other shop do you refer to?

A. The city.

Mr. FRANK.—Neither of those are "Hilonian" numbers, *Mr. Frank*.

Mr. McCLANAHAN.—Mr. Frank, you are offering the whole card and I have a right to cross-examine on the whole card.

Mr. FRANK.—I understand, but it is immaterial so far as your cross-examination is concerned, because it does not affect your case.

Mr. McCLANAHAN.—I frankly tell you if you think it is immaterial you are making a mistake because you will find out it is.

Mr. FRANK.—Very well, Mr. McClanahan; if you and I thought exactly alike there would not be any case at all.

Mr. McCLANAHAN.—Q. Mr. Young, I see on your card of September 7th a change in your hours worked which you say was made by yourself, 12 hours reduced to 11½. A. Yes, sir.

Q. How did you make the mistake originally in

(Testimony of Fenton K. Young.)

putting down 12 hours? A. Counting the clock.

Q. Who called your attention to the mistake, do remember? A. The chances are I did it myself.

Q. So that there is a chance of your making a mistake once in a while on the hours?

A. A fellow is liable to do that.

Q. The same with the September 11th card, there was a mistake made there in the time under 5295, was there not, and you changed it? A. Yes, sir.

Q. Nobody checks over your time, do they?

A. Not so far as I know. [744—655]

Q. You are still employed by the United Engineering Works? A. Yes, sir.

Q. Do you know a man named Stimmel—D. Stimmel? A. Yes.

Q. Do you know a man named John D. Pennycott? A. Yes.

Q. Do you know a man named John Mello?

A. Yes, sir.

Q. They are all employed by the United, are they not? A. No, sir.

Q. None of them are employed by the United now?

A. They are all but one.

Q. Which one is not? A. Pennycott.

Q. All the others are? A. Yes, sir.

[Testimony of John P. Wojdacki, for Libelant.]

JOHN P. WOJDACKI, called for the libelant, sworn.

Mr. FRANK.—Q. Wojdacki, you worked in the United Engineering Works, did you, in August and September, 1909? A. Yes, I did.

(Testimony of John P. Wojdacki.)

Q. You were a machinist, were you not?

A. Yes, sir.

Q. Did you keep a record of your time that you worked on each job? A. Yes.

Q. How did you keep the record of the time?

A. The record of the time I always been put on a little note to the evening time when I filled out the time-card.

Q. When you say a little note you mean to say a piece of paper?

A. Yes, a piece of paper or piece of sheet iron.

Q. On that you would put what?

A. Put the numbers of the work and the time it took to perform the work.

Q. And the time it took to perform the work?

A. Yes, sir.

Q. And at night-time you wrote that off on to your card? A. Yes, sir. [745—656]

Q. How did you note the time—did you have a clock or watch?

A. There is a clock in the shop, belongs to the company, and besides I got a watch of my own.

Q. Now, I show you a card of September 15th, being part of Adamson Exhibit No. 7, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your own handwriting, written down at the date at which it bears.

Mr. McCLANAHAN.—I object to the question on the ground that the card has already been identified by Adamson and forms a part of his Exhibit No. 7;

(Testimony of John P. Wojdacki.)

on the ground that it is cumulative, and on the ground that it is encumbering the record by the further examination of the card.

A. I beg your pardon, sir. I did not understand the question.

Mr. FRANK.—Read the question.

(The last question repeated by the Reporter.)

A. Yes, sir.

Q. I hand you a card dated September 17th, being a part of Adamson Exhibit No. 7, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your own handwriting, written down at the date at which it bears.

Mr. McCLANAHAN.—The same objection.

A. Yes, except the machinist.

Mr. FRANK.—Q. You mean the word machinist?

A. Yes, the word machinist.

Q. Was not that written by you?

A. No, sir, it is not.

Q. I now show you a card of September 22d, being a part of Adamson Exhibit No. 7, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your [746—657] own handwriting, written down at the date at which it bears.

Mr. McCLANAHAN.—The same objection.

A. That is, the word “Hilonian” is not put by me.

Mr. FRANK.—Q. Now, look at that carefully and see for yourself. I do not want to tell you anything one way or another, but it is with the same pencil.

A. It looks to me that it is not mine but I would

(Testimony of John P. Wojdacki.)

not be positive of it.

Q. Well, at any rate, the numbers are all yours, are they not? A. Yes, sir.

Q. Now, I show you a card dated September 21, being part of Adamson Exhibit No. 7, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your own handwriting, written down on the date at which it bears date.

Mr. McCLANAHAN.—The same objection.

A. It is all mine.

Mr. FRANK.—Q. I now show you a card dated September 8th, being part of Adamson Exhibit No. 34, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your own handwriting, written down on the date at which it bears.

Mr. McCLANAHAN.—The same objection.

A. The word “machinist” is not mine.

Mr. FRANK.—Q. There is one number here changed from 3 to 4; is that change in your own handwriting?

A. That is in my own handwriting.

Q. Made at the time before you passed the card in? A. Yes.

Q. I now show you a card dated September 7th, being part of Adamson Exhibit No. 34, and ask you if that is a card kept by [747—658] you in the manner you have indicated, and whether the same is in your own handwriting, written down on the date at which it bears.

(Testimony of John P. Wojdacki.)

Mr. McCLANAHAN.—The same objection.

A. Everything is mine here.

Mr. FRANK.—Q. I now show you a card dated September 6th, being part of Adamson Exhibit No. 34, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your own handwriting, written down on the date at which it bears.

Mr. McCLANAHAN.—The same objection.

A. Everything is mine.

Mr. FRANK.—Q. I now show you a card dated September 5th, being part of Adamson Exhibit No. 34, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your own handwriting, written down on the date at which it bears.

Mr. McCLANAHAN.—The same objection.

A. Everything is mine.

Mr. FRANK.—Q. I now show you a card dated September 3d, being part of Adamson Exhibit No. 34, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your own handwriting, written down on the date at which it bears.

Mr. McCLANAHAN.—The same objection.

A. Everything is mine.

Mr. FRANK.—Q. I now show you a card dated September 2d, being part of Adamson Exhibit No. 34, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your own handwriting, written down on the date

(Testimony of John P. Wojdacki.)

at which it [748—659] bears.

Mr. McCLANAHAN.—The same objection.

A. Everything is mine here.

Mr. FRANK.—Q. I now show you a card dated September 1st, being part of Adamson Exhibit No. 34, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your own handwriting, written down on the date which it bears.

Mr. McCLANAHAN.—The same objection.

A. The same here.

Mr. FRANK.—Q. Underneath that $\frac{1}{2}$ there, do you know what that was, in your handwriting underneath the $\frac{1}{2}$ in ink?

A. All the ink isn't mine.

Q. I know, but underneath that ink, what was that? A. I don't know what it was.

Q. Can't you make it out? I think I can make it out. I think you ought to be able to make it out.

A. Well, it looks like the number of hours put together, as it is figured out.

Q. Isn't that 6:30? A. That is 6 $\frac{1}{2}$.

Q. 6:30. The 30 is changed to $\frac{1}{2}$? A. Yes.

Q. I now show you a card dated August 31st, being part of Adamson Exhibit No. 34, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your own handwriting, written down on the date which it bears?

Mr. McCLANAHAN.—The same objection.

A. Yes; everything is mine.

Mr. FRANK.—Q. In that same card I wish you

(Testimony of John P. Wojdacki.)

would look at that $1\frac{1}{2}$ and see what is underneath it.

A. Underneath is $14\frac{1}{2}$, $5\frac{1}{2}$ —

Q. No; I mean underneath the half—the 5 there in your handwriting. Turn it around so that the light shines on it. [749—660]

A. It was 5:30 and it is exchanged from the 30 into $1\frac{1}{2}$ in ink.

Q. Into $1\frac{1}{2}$? A. Yes.

Q. I now show you a card dated August 30th, being part of Adamson Exhibit No. 34, and ask you if that is a card kept by you in the manner you have indicated, and whether the same is in your own handwriting, written down on the date which it bears.

Mr. McCLANAHAN.—The same objection.

A. It is all mine.

Mr. FRANK.—Q. All those cards made out by you in the manner you have indicated?

A. By myself.

Q. The time kept in the manner you have indicated? A. Yes.

Cross-examination.

Mr. McCLANAHAN.—Q. When you start on a job do you put the time down on the slip of paper?

A. Yes.

Q. And then when you finish with the job what do you do?

A. When I finish on the job I generally look at the clock, how long it took me to do it.

Q. And so—

A. So as to know how much I got to put on the card.

(Testimony of John P. Wojdacki.)

Q. So in the first instance you would put down the time you commenced? A. Yes, sir.

Q. Then when you finished the job you would look at the clock and find out how much time you had taken? A. Yes, how much time it took.

Q. And you put that where?

A. On a piece of paper.

Q. And then at night?

A. At night I put it on the time-card.

Q. Now, I show you your card of September 8th, where three hours is changed to four hours. How do you account for the change? [750—661]

A. Well, I made a mistake by putting 3 instead of 4.

Q. When did you make that mistake?

A. This was at the time there was a change in the number of the hours, I believe, at that time, and if we had been working less than 9 hours, it was put 9 hours on the time-card; then we would get rattled once in a while.

Q. You would get rattled?

A. We did not know whether it would be right to put the exact number of hours we worked or whether to put 9 hours.

Q. So this 3 was probably the exact number of hours you worked?

A. No, it was not the exact number of hours.

Q. What was it, 4?

A. The exact time, you know, was always divided into correspondingly between the number of hours put on the work. You know that the reduction from

(Testimony of Pohn P. Wojdacki.)

the 9 hours to the 8 was made gradually.

Q. Gradually.

A. First we started to work $8\frac{3}{4}$ hours, and then we worked $8\frac{1}{2}$ for six months, and then $8\frac{1}{4}$, until we came to 8.

Q. Getting pay for nine hours?

A. For nine hours; and we had been putting it on the time-card 9 hours until the notice was put to the effect, to put the 8 hours.

Q. When did this change from 9 hours first commence? A. I could not tell that exactly.

Q. You don't know whether it was in September, 1909, or not?

A. I know it didn't commence in September; it commenced in June month, and then was six months after reduced a quarter of an hour.

Q. That is the understanding was consummated in June? A. Yes, sir.

Q. And it did not take effect until 6 months afterwards?

A. No. A quarter of an hour was reduced every six months.

Q. From June on? A. Yes. [751—662]

Q. That was in the year 1909?

A. I am not positive about that.

Q. But you think June is correct?

A. Yes, I know June is correct, but I don't know whether it was in that year.

Q. Are you working eight hours now?

A. Yes, sir.

Q. When did you start to work eight hours?

(Testimony of Pohn P. Wojdacki.)

A. We worked about a year and a half already, but I don't know the exact date.

Q. About a year and a half? A. Yes.

Q. So that in September 1909, you must have been working less than nine hours? A. Yes, sir.

Q. So that your time-cards, if they show 9 hours of work, do not represent 9 hours of actual work?

A. No, sir.

Q. That is true all through the shop, is it?

A. Yes, with every man employed in the shop.

Q. You are still in the employ of the company, are you?

A. Yes, I am still in the employ of the company.

(An adjournment was here taken until to-morrow, Thursday, September 7th, 1911, at 10 o'clock A. M.)
[752—663]

Thursday, September 7th, 1911.

**[Testimony of Stephen Cronin, for Libelant
(Recalled).]**

STEPHEN CRONIN, recalled for further examination:

Mr. FRANK.—Q. Cronin, on your former examination I understood you to say that you were at work in the storeroom at night-time after Mr. Roberts left. A. Yes, sir.

Q. And when you were you attended to the delivering of the stores during that time? A. Yes, sir.

Q. As well as of the other work that you performed? A. Yes, sir.

Q. I show you a stock card A6434, and ask you whether or not that is a stock card of stock issued by

(Testimony of Stephen Cronin.)

you at the time indicated.

A. Yes, sir, this is not my writing. That is Mr. Roberts, at the bottom.

Q. One gallon gasoline? A. Yes, sir.

Q. The rest is in your handwriting?

A. Yes, sir, all but the signature.

Q. How was that material issued?

A. It was issued by the fellow who came after it.

Q. By the fellow who came after it or to the fellow?

A. To the fellow.

Q. How would you issue it, whether on an order or not?

A. He would come in and ask me for the material and I would get the job number, put it down and write the order.

Q. How did you get the job number?

A. By the list of numbers brought in from the office.

Q. How would you ascertain what work it was intended for?

A. He would tell me. This fellow would tell me what it was [753—664] used on and I would put it down on the tag.

Q. During this night-time what particular work was there that was going on at the Works?

A. I don't remember. It was just on the boats; that is all I remember.

Q. I mean whether the "Hilonian" or other work was the work that was going on?

A. It was the engine on the "Hilonian."

Q. Did the man bring any order for this partic-

(Testimony of Stephen Cronin.)

ular material from anybody? A. No, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—I object to the offer as incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent.

Q. Mr. FRANK.—Q. I now show you a stock card A6439, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated.

A. Yes, sir, all but my signature.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A6446, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir, the same.

Q. Issued by you in the same manner?

A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A6448, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir. [754—665]

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A6449, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated.

(Testimony of Stephen Cronin.)

A. No, sir, that is not mine.

Q. 6449? A. No, sir, that is Nelson's.

Q. Well, what I am asking you is not if it is your own handwriting, but whether it was issued by you?

A. I don't remember.

Q. You don't remember? A. No, sir.

Q. That is an order signed by Nelson, is it?

A. Yes, sir. Nelson signed it.

Q. Who is Nelson? A. He is a machinist.

Q. A machinist? A. Yes, sir.

Q. Could he get that out of the shop without you delivering it to him if you were there, or Roberts?

A. If I was there. He must have got it from Mr. Roberts. Mr. Roberts' name is signed there.

Q. I now show you a stock card A6494, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A6495, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. No, sir.

Mr. FRANK.—Q. I now show you a stock card A2304, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. [755—666]

A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

(Testimony of Stephen Cronin.)

Mr. FRANK.—Q. I now show you a stock card A2319, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A2391, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A2393, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. No, sir.

Q. What does that S. C. mean underneath there?

A. That is my signature, my initials rather.

Q. What is your answer now whether you issued that or not?

A. I don't know whether I issued it or not. I must have. My signature is down there.

Q. What did you put your initials down there for?

A. It was me that wrote the order.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A2396, and ask [756—667] you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated.

A. Yes, sir.

(Testimony of Stephen Cronin.)

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A2413, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A2417, and ask you whether or not that is a card of material issued by you at the time indicated, and for job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A2441, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A2455, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection. [757—668]

Mr. FRANK.—Q. I now show you a stock card A2432, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

(Testimony of Stephen Cronin.)

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A2432, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A2481, and ask you whether or not that is a card of material issued by you at the time indicated, and for job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A2493, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A2494, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence. [758—669]

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A3232, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

(Testimony of Stephen Cronin.)

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A3233, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A3237, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A3264, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I now show you a stock card A3287, and ask you whether or not that is a card of material issued by you at the time indicated, and for the job number indicated. A. Yes, sir.

Mr. FRANK.—We offer this in evidence.

Mr. McCLANAHAN.—The same objection. [759—670]

Cross-examination.

Mr. McCLANAHAN.—Q. How old did you say you were, Stephen? A. 18.

Q. I see “Roberts” signed at the end of all these

(Testimony of Stephen Cronin.)

cards. A. Yes, sir.

Q. Who signed that? A. Mr. Roberts.

Q. When? The next day?

A. The next morning.

Q. The handwriting on the body of the card is yours? A. Yes, sir.

Q. When a man came in and asked for candles how did you know what job number to charge it to?

A. He would tell me.

Q. Who would tell you? A. This man.

Q. He would tell you what?

A. He would tell me the job number unless he told me the boat it was for and I looked the number up and put it down on the order.

Q. Did you not know that the "Hilonian" had a number of job numbers? A. I don't remember.

Q. You do not know where the man got the job number when he told it to you? A. No, sir.

Mr. FRANK.—I did not understand him to say the man gave him the job number.

Mr. McCLANAHAN.—Q. Did you not say that?

A. He would give me the job number or he would tell me what boat it was, and I would look at the list of numbers and put it down on the tag.

Q. If the "Hilonian" had a number of job numbers, and he would tell you it was the "Hilonian," how could you determine by looking at the tag what the job number was to which these candles should be charged?

A. He would tell me what part of the boat it was used on. [760—671]

(Testimony of Stephen Cronin.)

Q. How would you know then what job number to put down? A. I looked it up on the list.

Q. On what list? A. The list of job numbers.

Q. Would this list show you the character of the work?

A. It would show me the different job numbers and what they were for.

Q. There is your card A3233, charging to job number 5325 3 pounds and $\frac{3}{8}$ C. R. steel. How did you know to charge that to 5325?

A. He would give me the number.

Q. Who would give you the number?

A. The man who came in and got the material.

Q. You don't know where he got it from?

A. No, sir.

Q. Look at job number 5295, your card A3264. Where did you get the job number for that card?

A. If he did not give me the job number I looked it up on the list and got the job number.

Q. How could you get the job number by looking it up on the list?

A. It gave the list of different job numbers.

Q. And from knowing what he wanted, as shown by this card, you could tell by looking at the job number list what job number it was to be charged to?

A. Yes, sir.

Q. Is that the same with reference to your card A3237? A. Yes, sir.

Q. That is, by looking up your list of job numbers you could tell from the material that he wanted what job number of the "Hilonian" it was to be charged

(Testimony of Stephen Cronin.)

to? A. Yes, sir.

Q. I show you your card of September 7th, A2441, where two dozen candles are charged to 5295. How did you get that number? [761—672]

A. That was used on the engine, and the engine number was 5295.

Q. How do you know that those two dozen candles were used on the engine?

A. The man who came up and got the material told me.

Q. There is nothing on the card to show it, is there? A. No, sir.

Q. Do you remember that he told you?

A. I don't remember.

Q. Then what are you saying he told you for if you don't remember?

A. That is what they do. They come up that way and tell me the number and the material they wanted, and I put it down.

Q. Where did you keep these lists that you refer to as containing the job numbers of the "Hilonian"?

A. The storekeeper kept the lists on his desk.

Q. If a man should come up and ask for something from the storeroom from you and tell you what job number it was intended for, you would make out a card and give him the material, would you?

A. Yes, sir.

Redirect Examination.

Mr. FRANK.—Q. What is it you said, Mr. Cronin, on your cross-examination about asking the man

(Testimony of Stephen Cronin.)

what it was to be used on? I understood you to say that if you did not know what the job number was, you would ask the man what it was to be used on, and look it up on the list? A. Yes, sir.

Q. Did you do that also? A. Yes, sir.

Q. So that it was not entirely on what the man told you that you depended on, was it? A. No, sir.

Recross-examination.

Mr. McCLANAHAN.—Q. Suppose a man came in and asked you for two dozen candles that he wanted to use on 5295, would you give [762—673] it to him?

A. Yes, sir, if he gave me the job number.

Q. Without looking up the list?

A. Without looking up the list.

[Testimony of Fred Boyd, for Libelant.]

FRED BOYD, recalled for further examination:

Mr. FRANK.—Q. Mr. Boyd, did you give out material for use on this job during the night-time?

A. I gave out orders for it whenever I worked overtime.

Q. Whenever you worked overtime?

A. Or whenever Mr. Robertson was not there, the man who had charge of the toolroom. When he was away I had charge and made out the orders.

Q. When you made out the orders, what do you mean by that? Would you deliver the material on those orders?

A. A man would come to me and tell me what he wanted, and I would make out the material he wanted

(Testimony of Fred Boyd.)

on the card, and he would take it over to the store-room, and they would give him the material in the storeroom, that is, if it was not material we had in the toolroom. We keep machine tools in the toolroom.

Q. If you had it in your toolroom you would deliver it to him on those orders?

A. I would deliver it to him and charge it up.

Q. During the time that you were working there in the night-time during this particular time, do you remember whether or not the work was "Hilonian" work?

A. Most of it was, but I gave out orders for other jobs.

Q. Now, I show you a stock card dated August 27th, 1909, and ask you what that is. The number is C6817? A. 1 and 3-4—

Q. What I mean by that is, is that an order for material that you delivered out? [763—674]

A. That is an order for them to go to the store-room to get the material.

Q. That is an order for them to go to the store-room to get that particular material?

A. Yes, sir.

Q. How would you know what job number to put it to?

A. I knew what job the man was working on, and he would give me the number.

Q. How would you know what job he was working on?

A. Well, I always knew before I would give them

(Testimony of Fred Boyd.)

an order for any material. I would not give a man an order unless I knew positively that he was working on that job.

Q. You would know what jobs were going on at night-time while you were there?

A. Well, when a man would come to me for the order I would know. I always knew at night when I was working too what jobs they were working on.

Q. This "F. B." on the bottom of that—

A. That is my signature.

Q. Your initials? A. Yes, sir.

Q. Would you retain this order or would he take it?

A. He would take that order to the storeroom. I would put it in the stub in the order book.

Q. That is, you would have a duplicate of that?

A. Yes, sir.

Q. And he would take this order and go and get the material, is that it?

A. He would take that order to the storeroom to get the material.

Q. I show you C6818, and ask you about that, whether that is an order for material issued by you from the toolroom, or an order for him to go to the storeroom and get it?

A. That is an order for a piece of steel that I went after myself, to make the tool out of. [764—675]

Q. That is, you took this order to the tool shop, to the storeroom and left the order there and took the material yourself?

A. And took the material myself.

(Testimony of Fred Boyd.)

Q. After you finished with the tool how would you deliver it, or to whom would you deliver it?

A. To the man in charge of the job, and there were times when he would send a man up from the boat to get it.

Mr. FRANK.—I offer that in evidence.

Mr. McCLANAHAN.—I object to it as incompetent, irrelevant, immaterial, hearsay, self-serving and not binding on the respondent.

Mr. FRANK.—Q. I show you C6288, and ask you whether that is an order for material issued by you from the toolroom or an order for the man to go to the storeroom and get it?

A. That is material we had in the toolroom.

Q. Issued by yourself?

A. Someone else put down the amount that they took. I put down the fuse, and then they put down the amount and I signed my name.

Q. Would you superintend it to see that the amount was right when you issued it?

Mr. McCLANAHAN.—I object to that as leading and suggestive.

Mr. FRANK.—Q. How would you know whether or not they got that particular amount?

A. In that case the man that took it off measured it.

Q. Would you be present?

A. I was present. He would take out his rule, measure the piece and cut it off with his pocket knife.

Q. How would you satisfy yourself that he put down the correct number of feet?

(Testimony of Fred Boyd.)

A. I was busy at the time and I told him to [765—676] take it to the storeroom and told him to write down the amount he took because I was working on some job and did not have time at the time then to put it down.

Q. That is your own storeroom?

A. All the orders that I made out went through the storeroom into the box and would all go to the office.

Q. When you say you told him to take it to the storeroom, what do you mean, take the order to the storeroom? A. The order to the storeroom.

Q. After he got the material?

A. After he got the material.

Q. Where would he get the material? In your shop? A. He got that material in the toolroom.

Q. In your toolroom? A. In the toolroom.

Q. All these orders that bear your signature would be deposited in the storeroom?

A. They would go through the storeroom and then to the office.

Q. Is that the same with reference to C6817?

A. That is material that was in the storeroom.

Q. I mean would that be deposited in the storeroom?

A. The man would take that to the storeroom to get the material.

Mr. FRANK.—I offer that in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I show you C6826, and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to

(Testimony of Fred Boyd.)

the storeroom and get it? A. That is my order.

Q. Would you deliver the material on that?

A. The man would take that order to the storeroom to get the [766—677] material. I would know when he used the material on that.

Q. What do you mean by that?

A. On that particular job, before they would take the boring-bar out I would get all the boring-bar tools together, and I would know that he would need the bolts on the job, so I would make out the order for the bolts and he would go over to the storeroom and get the bolts.

Q. That is, he could not use the tool without those bolts?

A. Without those bolts. That was for the spider-head of the boring-bar.

Q. He would get the tool from you and on this order he would get the bolts from the shop?

A. Out of the storeroom. I would give him an order to go to the storeroom to get the bolts to be used on the bar.

Mr. FRANK.—I offer that in evidence.

Mr. McCLANAHAN.—Just wait a moment. I want to examine the witness on it.

Mr. FRANK.—You can ask him on cross-examination.

Mr. McCLANAHAN.—I have a right to examine the witness before the exhibit goes in evidence.

Mr. FRANK.—You can cross-examine him afterwards.

Mr. McCLANAHAN.—I want to do it now.

(Testimony of Fred Boyd.)

Q. You do not know, Mr. Boyd, that this was delivered to the man who went after it?

A. I would know he would have to have the material and the bolts to do the job.

Q. Please answer the question.

Mr. FRANK.—He has answered it.

Mr. McCLANAHAN.—Q. You do not know that they were delivered from the storeroom to the man?

A. I would not know that he received those bolts, no.

Mr. McCLANAHAN.—I object to the offer as being incompetent, [767—678] irrelevant, immaterial, self-serving, not binding on the respondent.

Mr. FRANK.—Q. By saying he would need those bolts what do you mean?

A. I know he would have to have those bolts. If he did not have those bolts he would have to take some other bolts.

Q. Would the other bolts have to be of the same size?

A. Yes, sir, they would be the same size. I knew they had to be used on the job.

Q. I show you C6828, and ask you whether that is an order for material issued by you from the tool-room, or an order for the man to go to the storeroom and get it. A. That is my order.

Q. This I notice is for candles?

A. I would write out the order and they would go over to the storeroom and get the candles.

Q. Why would they come to you for an order for

(Testimony of Fred Boyd.)

candles instead of going directly to the storeroom for them?

A. The storeroom man would not make out the order for him. He was supposed to have the order before he would go to the storeroom.

Q. Why would you make out the order for them?

A. I knew the man was working on the job and he would ask for the candles that he needed, and I would make out the order for him.

Q. How did you know he was working on the job?

A. I would generally know by the tools he was using that he would have to have for the job, on account of being in the toolroom.

Q. I notice on here "Used on engine"; that is your handwriting, is it? [768—679]

A. That is my handwriting; yes.

Q. Then, would a particular class of men come to you for these materials, I mean a particular department of men, or would all the men working on a job come to you for such material as that?

A. It was either the machinists or helpers.

Q. That is, it was the machine-shop men that would come to you for such an order?

A. For such an order? Well, not always. There are men working on the boats at times, machinists.

Q. It would be a machinist?

A. A machinist that would come.

Q. A man working in other departments would not come to you? A. He would not come to me; no.

Q. You were in the machine-shop?

A. I was in the machine-shop.

(Testimony of Fred Boyd.)

Q. When you were there at night-time in what capacity were you acting?

A. I had charge of the toolroom when I was there at night; I was working on the tools.

Mr. FRANK.—These that I do not offer now I am reserving for a subsequent offer. I am just setting them aside so that I can keep track of them.

Mr. McCLANAHAN.—You are not offering A6828?

Mr. FRANK.—I will offer them subsequently.

Mr. McCLANAHAN.—But not at this time?

Mr. FRANK.—Not at this moment.

Q. Now, I show you C6850, and ask you whether that is an order for material issued by you from the toolroom, or an order for a man to go to the storeroom and get it. A. Yes, sir, that is my order.

Q. Where is it issued from?

A. From the toolroom.

Q. You issued that yourself?

A. I issued that myself. The [769—680] file I gave them out of the toolroom.

Q. The file? A. Yes, sir.

Q. How about the 6/12 inch hack-saw blades?

A. I gave them those too.

Q. 5 gallons of gasoline?

A. They had to go to the storeroom for that.

Q. I show you C6853, and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to the storeroom and get it. A. That is my order.

Q. Where is that issued from?

(Testimony of Fred Boyd.)

A. That is issued from the toolroom and they would get the material in the storeroom.

Q. I will show you C6854 and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to the storeroom and get it.

A. That was issued from the toolroom on my order and they would go to the storeroom for the material.

Q. I will show you C6856, and ask you whether that is an order for material issued by you from the toolroom, or an order for him to go to the storeroom and get it.

A. This is an order that I made out.

Q. Where would it be issued from?

A. From the toolroom.

Q. From the toolroom? A. Yes, sir.

Q. Did you have gasoline in the toolroom?

A. I issued it from there, but they would go to the storeroom to get the gasoline.

Q. That is what I want to know. I want to know in each case where it was issued from. I will show you C6870, and ask you [770—681] whether that is an order for material issued by you from the toolroom, or an order for the man to go to the storeroom and get it.

A. That is my order and they would go to the storeroom to get the material.

Q. I will show you C6873 and ask you whether that is an order for material issued by you from the tool-

(Testimony of Fred Boyd.)

room, or an order for the man to go to the storeroom and get it.

A. They would go to the storeroom to get the material. This is my order.

Q. I will show you C6888, and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to the storeroom and get it.

A. I made out the order and they would get the material in the storeroom.

Q. I will show you C6892, and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to the storeroom and get it.

A. I made out the order and they got the material in the storeroom.

Q. I will show you C6895, and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to the storeroom and get it.

A. I made out the order and they got the material in the storeroom.

Q. I will show you C6896, and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to the storeroom and get it.

A. I made out the order and they got the material in the storeroom.

Q. I will show you A1658, and ask you whether that is an [771—682] order for material issued by you from the toolroom, or an order for the man to go

(Testimony of Fred Boyd.)

to the storeroom and get it.

A. I made out the order but they were in the storeroom and they added the other for whatever he needed.

Q. Did you issue any of the material?

A. I did the top part. The $\frac{2}{3}$ washers I did not issue.

Q. You issued all but the $\frac{2}{3}$ washers?

A. Yes, sir, all but the $\frac{2}{3}$ washers.

Mr. FRANK.—I offer that in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I will show you A1671, and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to the storeroom and get it.

A. That is my order; they got the material in the storeroom.

Q. I will show you A1673, and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to the storeroom and get it.

A. That is my order and they got the material in the storeroom.

Q. I will show you A1677, and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to the storeroom and get it.

A. That is my order; they got the material in the storeroom.

Q. I will show you A1690, and ask you whether that is an order for material issued by you from the

(Testimony of Fred Boyd.)

toolroom or an order for the man to go to the store-room and get it.

A. That is my order; they got the material in the storeroom. [772—683]

Q. I will show you A1655, and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to the store-room and get it.

A. That is my order and they would get the material in the storeroom.

Q. I will show you A1694, and ask you whether that is an order for material issued by you from the toolroom, or an order for the man to go to the store-room and get it.

A. That is my order for material in the storeroom. [773—684]

Cross-examination.

Mr. McCLANAHAN.—Q. Who assigned to you the duty of issuing these stock orders?

A. The superintendent.

Q. Of the Works? A. Of the Works.

Q. Who was that? A. Mr. Williamson.

Q. Did you have the authority to issue them day or night, whenever they were brought to you?

A. Day or night, when I was there alone.

Q. When you were in the toolroom?

A. When I was in the toolroom.

Mr. FRANK.—He said “alone.”

The WITNESS.—Alone in the toolroom; that is when Mr. Robinson was not there.

Mr. McCLANAHAN.—Q. Mr. Robinson had

(Testimony of Fred Boyd.)

charge of the toolroom? A. Yes, sir.

Q. When he was not there you could issue them day or night?

A. I could issue them day or night.

Q. Orders for material to be used on the tank tops would come to you, would they not?

A. You say on the tank tops?

Q. Orders for material to be used on the tank tops would come to you, would they not?

A. Well, I don't know whether any came to me or not.

Q. But they would, properly?

A. On tank tops?

Q. Orders for material to be used on the tank tops.

A. Well, if there was a machinist working on it, it would, yes.

Q. Well, suppose the machinist was working on the tank tops and wanted candles for use on the tank top.

A. Well, I would give him the order if he needed them on the top.

Q. How would you know the job number to put on those cards? [774—685]

A. I would take all the job numbers out of a book which is in the shop on the table there and copy them down in my book.

Q. You would copy down the job numbers?

A. In my order-book.

Q. Anything else except the job numbers?

A. And put down what job it is.

Q. Well, the "Hilonian" job numbers, you would

(Testimony of Fred Boyd.)

copy down in your book?

A. Yes, and all the others.

Q. Anything else besides the job number?

A. Well, different parts of the job; that is, if different parts of the job had different numbers I would have that down too.

Q. Suppose a man came to you and wanted $2\frac{3}{4} \times 3$ inch bolts, how would you know the job number to put that to? Wouldn't he tell you?

A. He would give me the number, yes.

Q. And you would take his word for it, would you not?

A. Well, I would know he was working on the job.

Q. On what job?

A. On the "Hilonian" job; if he gave me the number I would know he was working on the job because I would not give the order unless I knew they were working on the job.

Q. But he would give you the job number?

A. He would give me the job number, yes.

Q. If the "Hilonian" had a number of job numbers you would take his word for the statement that the bolt is wanted for the job number that he mentioned?

A. In that instance, I would, yes.

Q. If he wanted fuse for 5295 you would take his word for it, would you not?

A. I would know on that; I would be sure of that.

Q. You are sure of what?

A. Sure of the job he was using the fuse on.

[775—686]

Q. What job number would he be using the fuse

(Testimony of Fred Boyd.)

on? A. For shooting out coupling bolts.

Q. On what job number?

A. Well, I don't remember the job number now but I knew at the time.

Q. Who is it that would come to you with these slips, the men working on the jobs?

A. The men working on the jobs.

Q. How would they know to come to you? Is that well known? A. That was well known.

Q. That you had charge of issuing these slips?

A. They knew that, yes.

Q. Did anybody else have charge of issuing slips to men in the machinist department for material?

A. Yes, there is others; the foreman issued the orders.

Q. Which foreman—of the machine-shop?

A. Mr. Adamson issued orders, and men in charge of their jobs issued orders.

Q. By "orders" you mean sign these slips that you signed, similar slips?

A. Similar slips to that I signed.

Q. Anybody else have authority, do you know?

A. Not that I know of.

Q. Of course the storekeeper would have authority, would he not? A. I think he has.

Q. What is that?

A. I think he has the authority.

Q. When the man would come to you for material that was in the storeroom you issued the order and gave it to the man and that is the last you knew of it, was it not? A. It generally was, yes.

(Testimony of Fred Boyd.)

Q. You presume that he went to the storeroom and got the order filled? A. Yes, sir. [776—687]

Redirect Examination.

Mr. FRANK.—Q. As I understand you, Mr. Boyd, in some instances you would know from the nature of the article asked for what job it must be used on? A. I would; yes.

Q. Any material that was used on the brasses, would you know what that material was for?

Mr. McCLANAHAN.—I object to that as improper redirect examination.

Mr. FRANK.—I will change the question, not because you are objecting to it but because I can get at the same thing in another way.

Q. Any material used for the brasses in your department—

A. I knew what that was for; yes.

Q. Any material used on brasses, you would know what that was for, would you?

Mr. McCLANAHAN.—I object to that as improper redirect examination, as irrelevant and immaterial.

A. Well, I knew the solder that is used on the brasses, I knew that was used on it, because that was used to tin the brasses and I saw them working on it.

Mr. FRANK.—Q. How about babbitting the brasses? What material would they use for that purpose?

Mr. McCLANAHAN.—The same objection.

A. They would use the babbitt, and that was material used at the shop, in the shop or babbitting-house

(Testimony of Fred Boyd.)

that they were in.

Mr. FRANK.—Q. And what material would they use for heating the brasses?

Mr. McCLANAHAN.—The same objection.

A. They would use the gasoline for that; that is what they used [777—688] the gasoline for.

Mr. FRANK.—Q. That is what they used the gasoline for. A. For heating the brasses.

Q. Were the shims in your department?

Mr. McCLANAHAN.—The same objection.

A. They kept the materials for making shims in the storeroom.

Mr. FRANK.—Q. I do not mean where they kept the material, but you would know any material that was used on the shims, what that material was going to be used for, from the nature of the material

Mr. McCLANAHAN.—The same objection.

A. Yes, I would know.

Mr. FRANK.—Q. What kind of iron do they use on the shims?

A. Well, they use Russian iron and tin.

Q. Well, if any Russian iron was used you would know what that would be used for?

Mr. McCLANAHAN.—The same objection.

A. I would know.

Mr. FRANK.—Q. The solder you have already explained.

A. I knew where they used the solder.

Q. Any material used on the links, would you know where that material, from the nature of the material, was called for?

(Testimony of Fred Boyd.)

A. Well, I am not sure of the links. If it was the babbitt I would know.

Q. What is that?

A. If it was babbitt used on it I would know.

Q. How about brass rivets?

Mr. McCLANAHAN.—I object to that as unintelligible.

Mr. FRANK.—Q. Would you know where brass rivets would be used? [778—689]

Mr. McCLANAHAN.—That is objected to as immaterial, irrelevant, incompetent, and not proper redirect examination.

A. As a rule, I would know, but I am not sure of those.

Mr. FRANK.—Q. The boring-bar, I understand you delivered that over yourself.

A. From the toolroom.

Q. And whatever was necessary to be used with the boring-bar, you would know that, would you?

Mr. McCLANAHAN.—Same objection.

A. I would know that.

[Testimony of Alfred Boyer, for Libelant.]

ALFRED BOYER, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Boyer, you worked in the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. In what department? A. The toolroom.

Q. What were you doing, day or night work?

A. Night work.

Q. Night work? A. Yes, sir.

Q. Was all your work night work?

(Testimony of Alfred Boyer.)

A. All my work was night work.

Q. What were you doing in the toolroom?

A. I was making special tools for the job.

Q. Handing out tools also? A. Yes, sir.

Q. How did you keep your time?

A. Well, I had a yellow slip of paper, sort of order blank, with the number on it, and I would look at my watch when I would start on a job and when I would get through with the job I would take the time, and I would put down just how long I had been on it.

Q. On the job. A. Yes.

Q. I show you your card dated September 1, 1909, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you [779—690] at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—I object to the question on the ground it is cumulative, the card being a part of Adamson Exhibit No. 14 already introduced and verified by the witness, and on the further ground that this examination is encumbering the record.

A. That is my card.

Mr. FRANK.—Q. Was that made out in the manner in which you have indicated? A. Yes, sir.

Q. I show you your card dated September 2d, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. Yes.

(Testimony of Alfred Boyer.)

Mr. FRANK.—Q. I show you your card dated September 3d, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you your card dated September 4th, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you your card of September 5th, part of Adamson Exhibit No. 14, and ask you whether that is a card [780—691] made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you your card dated September 6th, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you your card dated September 7th, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you at

(Testimony of Alfred Boyer.)

the time in the manner you have specified and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you a card dated September 8th, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you at the time in the manner you have specified and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you your card dated September 9th, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you at the time in the manner you have specified and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir. [781—692]

Mr. FRANK.—Q. I show you your card dated September 10th, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you your card dated August 29th, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

(Testimony of Alfred Boyer.)

A. Yes, sir.

Mr. FRANK.—Q. You see on this card there is a change; you had 12½ hours, and it is reduced to 12 hours; who made the change?

A. The timekeeper makes the change; he came around in the morning and made the change, I think.

Q. Did he talk to you about it? A. Yes, sir.

Q. Find out what the trouble was? A. Yes.

Q. Well, when he made the change, before he made it, what did you do and he do?

A. Well, it was my mistake; he came and told me about it and just changed it.

Q. How would he know whether you had made a mistake or not?

A. By punching the clock, the time clock.

Q. He would make an inquiry of you?

A. Yes, sir.

Q. When he did, how would you verify the fact whether you had made a mistake or not? Do you remember—if you do not remember, say so.

A. I do not remember.

Q. You know he would come and talk it over with you, would he? A. Yes, sir. [782—693]

Q. I show you your card dated August 30th, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. The same thing happened on

(Testimony of Alfred Boyer.)

that? A. The same thing on that.

Q. I show you your card dated August 31st, part of Adamson Exhibit No. 14, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. That is the same thing on that.

Mr. FRANK.—Q. It is your card, too?

A. Yes, sir.

Q. I show you your card dated August 24th, part of Adamson Exhibit No. 12, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. This is my card.

Mr. FRANK.—Q. On the first hours worked there there is an erasure of the 3; is that in your own handwriting? A. Yes, sir.

Q. How about the job number, how was that changed? A. That is another job.

Q. How is that changed?

A. I was working half a day in the morning, and I had the wrong number on there, and he changed it.

Q. Well, when he would change the number, how would he do it? Would he come to you about it?

A. He would come to me about it. I worked half a day that day in the daytime.

Q. A half day in the daytime? A. Yes, sir.

Q. That is 4½ hours? A. Yes, sir. [783—694]

(Testimony of Alfred Boyer.)

Q. And the 12¹/₂ was overtime, was it?

A. Yes. That is when I started in in the night-time.

Q. I show you your card dated August 25th, part of Adamson Exhibit No. 12, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. That is my card. I don't remember what that change was.

Mr. FRANK.—Q. There don't seem to be any change, is there? Only divided up.

A. Only divided up a little bit.

Q. You must have been working a little bit in the daytime then; that is 9 hours straight.

A. That is 9 hours straight.

Q. You don't remember about that?

A. No, sir.

Q. I show you your card dated August 26th, part of Adamson Exhibit No. 12, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I show you your card dated August 27th, part of Adamson Exhibit No. 12, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

(Testimony of Alfred Boyer.)

Mr. McCLANAHAN.—The same objection.

A. That is the same.

Mr. FRANK.—Q. Your card also?

A. Yes, sir.

Q. I show you your card dated August 28th, part of Adamson Exhibit No. 12, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. That is my card. [784—695]

Mr. FRANK.—Q. Do you know what that change is on there? A. I don't remember.

Q. I show you your card dated September 2d, part of Adamson Exhibit No. 13, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I show you your card dated September 13th, part of Adamson Exhibit No. 13, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I show you your card dated September 14th, part of Adamson Exhibit No. 13, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

(Testimony of Alfred Boyer.)

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I show you your card dated September 15th, part of Adamson Exhibit No. 13, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. That is mine.

Mr. FRANK.—Q. I show you your card of September 16th, part of Adamson Exhibit No. 13, and ask you whether that is a card made out by you at the time in the manner you have specified, and in [785—696] your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. That is mine.

Mr. FRANK.—Q. I show you your card dated September 17th, part of Adamson Exhibit No. 13, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. That is mine.

Mr. FRANK.—Q. I show you your card dated September 19th, part of Adamson Exhibit No. 13, and ask you whether that is a card made out by you at the time in the manner you have specified, and in your own handwriting.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

(Testimony of Alfred Boyer.)

Cross-examination

Mr. McCLANAHAN.—Q. How old are you?

A. Twenty-one.

Q. Are you still working for the United?

A. Yes, sir.

Q. Not all of your work was night work, was it?

A. All of that work was night work.

Q. What do you mean by all of that work?

A. What I did at that time.

Q. Why were you working at night and not in the daytime?

A. I had to take charge of the toolroom at night.

Q. You had to take charge of the toolroom at night? A. Yes, sir.

Q. Did you have entire charge of the toolroom at night? A. Yes, sir.

Q. At that time? A. Yes sir.

Q. Anybody else working with you at that time?

A. No, sir. [786—697]

Q. Nobody else in the toolroom at that time?

A. No, sir.

Q. At night? A. No, sir.

Q. I call your attention to your cards of September 14, 15, 16 and 17, and ask you if you were working at night on those days?

A. Yes, I was working at night.

Q. Do you know why you were not credited with overtime, double time?

A. Straight time up to a certain hour.

Q. Straight time up to a certain hour?

A. Yes, sir.

(Testimony of Alfred Boyer.)

Q. That is 9 hours of straight time?

A. Yes, sir.

Q. All over that was double time?

A. Time and a half.

Q. I understand when you commenced to work on a job you took out your watch and looked at the time?

A. Yes, sir.

Q. And when did you note the time next?

A. When I would get through with the job and start on another job.

Q. So that if you looked at your watch at 7 o'clock and you finished the job and looked at it again and it was 9 o'clock, you would charge the job with two hours' work? A. Yes, sir.

Q. So that these cards here represent the actual time worked on each job number? A. Yes, sir.

Q. As shown by your watch? A. Yes, sir.

Q. The actual time? A. Yes, sir.

Q. In every case? A. Yes, sir.

Q. Sometimes you would make a mistake would you not, in putting down the time?

A. Not very often.

Q. Well, let us see. You made a mistake on August 28th, didn't you?

A. I don't remember whether I did.

Q. Your card shows a change in the time, doesn't it? A. It shows a change, yes. [787—698]

Q. Who made the change? A. The timekeeper.

Q. Well, he would not make a change if it was right, would he, if your time was right?

Mr. FRANK.—I submit that there is no change

(Testimony of Alfred Boyer.)

in the time he has charged; he is credited with exactly the amount of time he originally put it; it is simply divided.

Mr. McCLANAHAN.—I guess that is correct.

Q. Explain the card August 28th, please. You had down there, as I read it, originally 13½ hours. Now, the timekeeper has changed that to 12 hours and has given you an hour and a half in addition; what is that hour and a half?

A. That is for the overtime.

Q. So you—

A. I got an hour and a half overtime.

Q. So you worked how many hours on that job on that day? 12 hours or 13½ hours? A. 12.

Q. 12 hours? A. Yes, sir.

Q. Didn't you put down 13½ originally?

A. Yes, sir.

Q. Well, then, you made a mistake when you put down 13½, didn't you? A. Yes.

Q. That is what I thought.

Mr. FRANK.—I do not think so. You may get him to say so.

Mr. McCLANAHAN.—Q. I show you the card of August 27th; didn't you make a mistake in putting down the hours worked on that card?

A. I don't remember.

Q. Does not the card show that you made a mistake?

Mr. FRANK.—Let me see the card.

Mr. McCLANAHAN.—It is your exhibit, Mr. Frank.

(Testimony of Alfred Boyer.)

Mr. FRANK.—I understand. I want to see it for myself.

Mr. McCLANAHAN.—I have no objection to your seeing it. [788—699]

Q. Does not your card show you put down 12½ hours and it was changed by the timekeeper to 12 hours? Can't you answer that question?

A. I can't remember that at all.

Mr. FRANK.—That speaks for itself.

Mr. McCLANAHAN.—The witness has stated that he made very few mistakes and I am calling his attention to some of them.

Mr. FRANK.—I think there are.

Mr. McCLANAHAN.—Q. On August 26th didn't you make a mistake in putting down your time at 12½ hours? A. I don't remember that at all.

Q. On August 25th, from your watch examination you put down 12 hours of work, didn't you make a mistake when you did that?

Mr. FRANK.—No, I don't think he did.

Mr. McCLANAHAN.—Mr. Frank, that is a matter for redirect examination.

Mr. FRANK.—I do not think there is anything gained by bringing up an issue that is not a true issue, only makes so much more work.

Mr. McCLANAHAN.—Q. What about that; do you remember it? A. No, sir.

Q. On August 31 didn't you make a mistake when you put down 11½ hours as the time you worked on that job? A. I don't remember that.

Q. I am not asking whether you remember it, but

(Testimony of Alfred Boyer.)

you said that you made very few mistakes in putting down your time, and I am trying to refresh your memory by calling your attention to these cards in your own handwriting.

Mr. FRANK.—You are trying to argue it with the witness. [789—700]

Mr. McCLANAHAN.—Q. I call you attention to August 30th, and ask you if you did not make a mistake when you put down 12½ hours on that card as the actual time worked?

A. I don't remember that at all.

Q. I call your attention to August 29th, and ask you if you did not make a mistake when you put down 12½ hours as the work done on that job on that day?

A. I don't remember that.

(A recess was taken until 2 P. M.) [790—701]

AFTERNOON SESSION.

[**Testimony of William Hay, for Libelant.**]

WILLIAM HAY, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Hay, you were at work in the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. In what capacity? A. I was crane-man.

Q. What were your duties in that capacity?

A. I was supposed to run up and down the shop on the crane and lift the jobs, put them in the machines, or anywhere they were wanted to be put.

Q. Did you keep a record of your time?

A. Yes, sir.

Q. How did you keep the record?

A. When the shop was busy and there were lots

(Testimony of William Hay.)

of jobs in the shop, I used to keep a small book and mark the time down from the time I went up in the crane on the job, and when I was finished with the job I marked that down. I divided up the jobs put together and marked down so much on each job whether I was 15 or 20 or 25 minutes or half an hour together. I would divide them all up together and whatever was on that certain job that I worked on I put that down on the one job.

Q. I think I understand you but the answer is a little involved.

A. It is pretty hard to tell, to take all of the jobs together.

Q. Where did you get the numbers of your jobs?

A. On the castings.

Q. Now, I show you a card of August 27th, part of "Adamson Exhibit No. 25," and ask you if that is a record kept by you in your own handwriting of the time put in on the several jobs on the day on which it bears date. [791—702]

Mr. McCLANAHAN.—I object to the question upon the ground that the card has been already identified by Adamson, and forms part of his exhibit No. 25, on the ground that it is cumulative, and on the ground that further examination on the card is encumbering the record.

Mr. FRANK.—If you admit it is fully proved by Mr. Adamson's testimony, of course I have no disposition to go any further with it.

Mr. McCLANAHAN.—You must remember you are offering these cards anew under a stipulation, and

(Testimony of William Hay.)

the stipulation is that my objection to the cards is that they are incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent, is a part of the stipulation.

Mr. FRANK.—If you have that objection to them and you admit that the other is sufficiently proved it is cumulative. If it is not sufficiently proved it is not cumulative. If it is sufficiently proved I will drop it.

Mr. McCLANAHAN.—What we do suggest is that this method of proof, if you consider it better than the other, should have been the method first employed.

Mr. FRANK.—If that is so there is no objection to employing it now. (To the witness.) Go on.

A. Yes, sir, that is mine.

Q. I show you a card of August 26th, part of "Adamson Exhibit No. 25," and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of August 25th, part [792—703] of the same exhibit, and ask you if that is a record kept by you in your own handwriting of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of August 28th, part of the same exhibit, and ask you if

(Testimony of William Hay.)

that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of August 30th, part of “Adamson Exhibit No. 24,” and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of August 29th, part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you now a card of August 31st, part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of September 1st, [793—704] part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

(Testimony of William Hay.)

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of September 2d, part of the same exhibit, and ask you if that is a record kept by you, in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you now a card of September 3d, part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs, on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you now a card of September 4th, part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of September 5th, part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of Sep-

(Testimony of William Hay.)

tember 6th, [794—705] part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you now a card of September 7th, part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you now a card of September 8th, part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of September 9th, part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of September 10th, part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day

(Testimony of William Hay.)

on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of September 16th, [795—706] part of “Adamson Exhibit No. 23,” and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of September 13th, part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of September 14th, part of the same exhibit and ask you if that is a record kept by you in your own handwriting of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I now show you a card of September 20th, part of the same exhibit, and ask you if that is a record kept by you in your handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

(Testimony of William Hay.)

Mr. FRANK.—Q. I now show you a card of September 21st, part of the same exhibit, and ask you if that is a record kept by you in your own handwriting, of the time put in on the several jobs on the day on which it bears date.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I notice on some of these cards simply [796—707] the word “crane,” and then again for other jobs, some special business like “Repairing belts, shop.” Those are all shop numbers, but on other than shop numbers there appears “Getting old material together.” Look at that word. Is it “old”?

A. Yes, sir, that is the old castings.

Q. “Helping on eccentrics.” What would that be?

A. That would be on the floor, helping on the machines.

Q. The distinction is when you are up in the crane you would simply put down “crane”; is that it?

A. Yes, sir, put down crane.

Q. When you were upon the floor you would put down the particular thing you were doing on the floor?

A. On the floor. I generally put that down, and the timekeeper and Mr. Adamson would come and find out from me all the jobs on the crane. They would come and see if I was on other jobs.

Cross-examination.

Mr. McCLANAHAN.—Q. You are still working for the United Engineering Works?

(Testimony of William Hay.)

A. Yes, sir.

Q. And have been for how long?

A. Since 1905, with one year off.

Q. Do you remember this work on the "Hilonian"? A. Yes, sir.

Q. How many hours constituted a day's work at that time?

A. I could not say for certain. If I knew the date of the time that we started $8\frac{3}{4}$, I might remember, but I don't remember the date at the present time. I don't remember at all. If I knew the date it would be all right, but I don't remember the date at all.

Q. Would an examination of your cards help you in that matter, [797—708] to tell me how many hours constituted a day's work at that time?

A. It is 9 hours there. (Pointing.)

Q. I am not referring to any particular card. I want you to answer my question if you can by refreshing your memory from an examination of the cards, all of them. Do you know what the question is?

A. Yes, sir, I worked nine hours, or whatever time it was. (After examination.) They are all 9 hours. They are all 9 hours there.

Q. That does not answer my question.

A. I don't remember if we were working $8\frac{3}{4}$ hours at that time or $8\frac{1}{2}$.

Q. Were you working 9 hours? How long have you been working 8 hours?

A. If I knew that I would be all right but I don't remember.

(Testimony of William Hay.)

Mr. FRANK.—We will give you all that detail.

Mr. McCLANAHAN.—Q. Do the cards assist your memory?

A. No, sir, the cards do not assist my memory at all. I have got the 9 hours down here, and I do not remember whether we were working the 9 hours or $8\frac{1}{2}$ or whatever it was. I don't remember at the present time.

Q. So you cannot say now that the cards show the exact number of hours that you worked on each piece?

A. Yes, sir, by taking the clock—I generally take them off of the clock, and when I finished the job I put it down. If we were working on $8\frac{1}{4}$ or $8\frac{1}{2}$ I generally count up the time on the different jobs, and we are supposed to put down whatever number of hours we were on the job, and then I marked that down.

Q. Marked what down?

A. The time I was on the jobs.

Q. I know that, but suppose you have got on one card a number of jobs whose aggregate hours make 9 hours, and suppose as a [798—709] matter of fact on that day you only worked $8\frac{1}{2}$?

A. We divided up that half an hour.

Q. How did you divide it up?

A. I put so much on one job, and it was divided up. If it was on two or three jobs I divided it up.

Q. I thought you told counsel on your direct examination that when you commenced a job you looked at the clock? A. Yes, sir.

(Testimony of William Hay.)

Q. And when you finished a job you looked at the clock? A. Yes, sir.

Q. Did you not put down the time you were working on that job here? A. Yes, sir.

Q. On the card? A. No, sir.

Q. Whereabouts? A. On a small book.

Q. And copied from the book on to the card?

A. Yes, sir.

Q. What about your explanation now of dividing up this possible half an hour of time that you did not work?

A. I generally put so much on one job and so much on another. If I was a long time on one job I would put that on the biggest job.

Q. Put what. The half hour? A. Yes, sir.

Q. If that was a half hour? A. Yes, sir.

Q. You would put that on the biggest job?

A. Not always. I might put a quarter of an hour on one job and a quarter of an hour on another.

Q. Can you at this time look at any of your cards and tell me how you divided up this half hour of time that you did not work?

A. That is a pretty hard job now. I could not exactly tell you that now.

Q. Let me ask you, do you remember doing that now? [799—710]

A. I remember most of it, anyhow. I remember that I used to do that anyhow.

Q. Do you remember that at that time you did that, that is, you divided up surplus time among the jobs that you were working on?

(Testimony of William Hay.)

A. That is, if I were on the $8\frac{1}{2}$ hours at that time.

Q. If you were?

A. If I were on the $8\frac{1}{2}$ hours at that time.

Q. Or if you were on the $8\frac{1}{4}$ hours you would do it?

A. I don't think we were on $8\frac{1}{4}$ at that time. I am sure we were not.

Q. So, you have some recollection?

A. I have some recollection so far, but I don't remember exactly the exact date. I cannot remember.

Q. Cannot your recollection assist you in saying it was not 9 hours that would constitute a day's work at that time? A. I could not say.

Q. These cards and the time put on them are for the purpose of determining your wage, are they not?

A. Yes, sir.

Q. Is there any card there that you can recognize as one where there was a division of this surplus time, if there was any surplus time at that time?

A. I should say that it would take me all my time to remember that now.

Q. Let me call your attention to the card of August the 28th. There is a card where there is a change of 9 hours straight, is it not?

A. Yes, sir, 9 hours straight.

Q. Do you remember dividing that time at all?

A. I could not say, I am sure.

Q. Was this question of how you should divide the time that [800—711] you did not work among the jobs left entirely to you?

(Testimony of William Hay.)

A. You mean the time I was supposed to put down here?

Q. Yes.

A. Yes, sir, I put all my time down here that I worked on the jobs. I put every hour down there that I was really working on the job.

Q. Let us take this card of August 28th, the first number is 5311, one hour's work? A. Yes, sir.

Q. I understand you get at that one hour by taking out your clock when you first commence to work?

A. Yes, sir.

Q. And taking it out when you finished it and found that was an hour, is that right?

A. Yes, sir.

Q. And ultimately it was put down on the card one hour? A. Yes, sir.

Q. You commence on another job, 4858?

A. Yes, sir.

Q. You looked at the time then? A. Yes, sir.

Q. And looked at the time when you finished work on that job? A. Yes, sir.

Q. And found it to be 3 hours?

A. If it was close to it I would put the 3 hours down.

Q. Then later on you commenced on another job, 5295, you looked at your watch? A. Yes, sir.

Q. And then when you had finished work on that job you looked at your watch again and found it was 4 hours? A. No, sir, on this job here.

Q. What are you pointing to?

A. The two jobs here.

(Testimony of William Hay.)

Q. Name them so that the record will show.

A. 4858 and 5295. It may be on this engine one hour.

Q. That is on 4858?

A. Yes, sir. I may have to move over to some of those jobs here, connecting-rods, slides, eccentrics.

Q. Refer to it by the number.

A. 5295. I may work on [801—712] that half an hour and I move back again, possibly back to the engine again.

Q. 4858?

A. 4858. I may be there 15 or 20 minutes and then back to 5295 again and so on.

Q. But in the end the aggregate of time expended on 5295 was 4 hours?

A. Yes, sir, the nearest approach that I could put it.

Q. Now, you come to 243, the last number on the card. A. Yes, sir.

Q. The aggregate of the time you put on that card was one hour? A. Always for one hour.

Q. So that the aggregate of the four jobs would be 9 hours. A. Yes, sir.

Q. Suppose you were only working 8½ hours that day, what are you going to do about it?

A. I would put it together on the one job, and I could not exactly say how I fixed that at all, to tell the truth; to tell the truth I could not. I used to put them on one, or perhaps on two, I don't remember exactly how we worked it, I could not.

Q. At any rate it was left to your discretion which

(Testimony of William Hay.)

job would be saddled with this extra time.

A. Yes, sir, that is the way it was. That is a pretty hard one on me. The crane work is so long on one job, and it is a pretty hard thing to keep time.

Q. Is there any way of your ascertaining for me the time when the trade agreement went into effect?

Mr. FRANK.—You need not trouble yourself about that. We will produce that. We have nothing to hide in this business.

Mr. McCLANAHAN.—Q. Answer my question without paying any attention to the interruption.
[802—713]

A. What was your question?

Q. Read the question, Mr. Reporter.

(The Reporter reads the question.)

A. If I got the date I might remember.

Q. I say, could you get the date?

A. I don't think I can.

Q. This was an agreement that affected all the employees of the United Engineering Works, was it not? A. I guess so.

Q. Don't you know so?

A. Every branch I guess was the same as we were—yes, it was.

Redirect Examination.

Mr. FRANK.—Q. It affected all of the iron workers all over the State of California, did it not?

A. No, sir.

Q. All about the bay? A. Yes, sir.

Q. All the different iron workers about the bay?

A. No, sir, not to all California.

(Testimony of William Hay.)

Q. Not all over the state, but all around the bay?

A. Yes, sir.

Q. I understand by some means when that went into effect you made a distribution between the different jobs of the extra half hour, whatever it was?

A. Yes, sir.

Q. You tried to do that fairly?

A. I tried to do that fairly. I did.

Q. You did not saddle one job with any more than its due proportion? A. No, sir.

Q. You were paid, however, on a 9-hour day?

A. On a 9-hour day.

Q. That was the rule?

A. That was the rule of the shop. [803—714]

[Testimony of H. G. Strowenjans, for Libelant.]

H. G. STROWENJANS called for the libelant, sworn.

Mr. FRANK.—Q. You were at work in the United Engineering Works in August and September, 1909? A. I was.

Q. In what department?

A. In the machine-shop.

Q. As a machinist? A. Yes, sir, as a machinist.

Q. What were you doing? Were you working in the daytime or night-time?

A. In the night-time.

Q. In the night-time always?

A. Most of the time.

Q. I show you a card dated September 11th, being part of "Adamson Exhibit 17," and ask you whether that is a card made out by you at that time as a rec-

(Testimony of H. G. Strowenjans.)

ord of your time.

Mr. McCLANAHAN.—I object to the question on the ground that the card has already been identified by Adamson, and forms part of his exhibit No. 17, on the ground that it is cumulative and on the ground that further examination on the card is encumbering the record. A. Yes, sir, that is my time-card.

Mr. FRANK.—Q. How did you get your job numbers, Mr. Strowenjans?

A. We had the job numbers on slips of paper handed to us by the foreman when it was given to us, or in case of jobs requiring a sketch or drawing it was on the sketch or drawing, or in case of large pieces they were written on there with chalk or white lead painted on.

Q. How did you keep the record of the number of hours worked by you on each job?

A. I was at all times running a large machine. There was a certain portion of that machine that I wrote the number on in chalk. At the close of the evening I would take them from my writings in chalk and put them on [804—715] the time-card.

Q. Did you note the time when you began, and when you finished each job?

A. Yes, sir, we did not note the time that we began, and the time that we finished, but the number of hours that we worked on that job.

Q. You put down the number of hours?

A. Yes, on the machine.

Q. On the machine? A. On the machine.

Mr. FRANK.—I offer that in evidence.

(Testimony of H. G. Strowenjans.)

Mr. McCLANAHAN.—I object to it on the ground that it is incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent.

Mr. FRANK.—Q. I now show you a card dated September 9th, being part of Adamson Exhibit 17, and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you a card dated September 8th, being part of Adamson Exhibit 17, and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is my card.

Mr. FRANK.—Q. I show you a card dated September 6th, being part of Adamson Exhibit 17, and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you a card dated September 5th, being part of Adamson Exhibit 17, and ask you whether that is a card made out by you at that time as a record of your time. [805—716]

Mr. McCLANAHAN.—The same objection.

A. Yes, sir.

Mr. FRANK.—Q. I show you a card dated September 4th, being part of Adamson Exhibit 17, and ask you whether that is a card made out by you at

(Testimony of H. G. Strowenjans.)

that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. Yes, sir, that is my card.

Mr. FRANK.—Q. I show you a card dated September 3d, being part of Adamson Exhibit 17, and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I show you a card dated September 2d, being part of Adamson Exhibit 17, and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I show you a card dated September 1st, being part of Adamson Exhibit 17, and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. The date is changed on that. It is written underneath.

Mr. FRANK.—Q. It is August 31st?

A. August 31st.

Q. Is the change made by you?

A. Yes, sir, that is my card.

Q. I show you a card dated August 30th, being part of Adamson Exhibit 17, and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

(Testimony of H. G. Strowenjans.)

A. That is my card. [806—717]

Mr. FRANK.—Q. I show you a card dated August 29th, being a part of “Adamson Exhibit No. 17,” and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I show you a card dated September 14th, being part of “Adamson Exhibit No. 17,” and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I show you a card dated September 12th, being a part of “Adamson Exhibit No. 16,” and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I show you a card dated September 13th, being a part of “Adamson Exhibit No. 16,” and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I show you a card dated September 14th, being a part of “Adamson Exhibit No. 16,” and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. That is my card. [807—718]

(Testimony of H. G. Strowenjans.)

Mr. FRANK.—Q. I show you a card dated August 28th, being part of “Adamson Exhibit No. 15,” and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. I show you a card dated August 27th, being part of “Adamson Exhibit No. 15,” and ask you whether that is a card made out by you at that time as a record of your time.

Mr. McCLANAHAN.—The same objection.

A. That is my card.

Mr. FRANK.—Q. Were all these cards made out, Mr. Strowenjans, in the manner you have testified to in the first part of this examination? A. Yes, sir.

Cross-examination.

Mr. McCLANAHAN.—Q. Did you use a time piece, Mr. Strowenjans, to keep your time?

A. No, sir, there was a clock at the head of the shop that we were all facing.

Q. I call that a time piece, don't you?

A. Yes, sir.

Q. You would look at the time piece when you would commence, as I understand your evidence?

A. Yes, sir.

Q. And you would look at the time piece when you finished? A. Yes, sir.

Q. The result of your two looks would be put on the lathe or the plate on the machine or whatever it was? A. Yes, sir.

(Testimony of H. G. Strowenjangs.)

Q. That is, if you commenced at 7 o'clock and you finished at 9 o'clock, you would put down 2 hours?

A. Yes, sir.

Q. And it was from this plate on your machine that you made the copy on to these cards?

A. Yes, sir.

Q. Of the time? A. Yes, sir. [808—719]

Q. So that the card represents the actual time worked on each job, is that correct?

A. Except where we worked $8\frac{3}{4}$ hours we put 9 hours on for a full day, or $8\frac{1}{2}$, we put 9 whatever that was.

Q. Let us take an illustration: you were working on job 4858, say, and worked on that job for 4 hours, and you would put that on your card?

A. 4 hours.

Q. Now, you take up another job, 5295, and you work on that job for 5 hours and you put that on your card, and you do no more work. Suppose, as a matter of fact, for that day you have only done $8\frac{1}{2}$ hours of work, how can you trace on that card the difference?

A. We would have to divide the number of hours card to make up the regular working day for which we were paid, and divide the amount of hours between the two different jobs in proportion to the time that we worked on the different jobs.

Q. That is, if you worked less than 9 hours during the day this difference between the time you did work and the 9 hours would be apportioned by you among the several jobs that you were working on?

(Testimony of H. G. Strowenjans.)

A. Yes, sir.

Q. When would this apportionment be made?

A. In the evening, or at the end of the work.

Q. At the end of the work?

A. When I had finished the day's work. I was working nights.

Q. At the end of the day? A. Yes, sir.

Q. At the end of your day?

A. At the end of my day.

Q. I thought you said you put down on the card when you finished on that particular job the number of hours worked on it from your machine?

A. Yes, sir, I did. I put it on the machine and the number of hours worked but I added also the [809—720] time divided between the different jobs.

Q. You say this division business was made at night after you had finished work on several jobs, say? A. It was.

Q. Then how could you make a division that would be applicable to the job that was commenced in the first part of the night and finished in the first part of the night before you took up the other job?

A. I don't understand what you mean.

Q. Let me explain. You have got a card here, say, that has three numbers on it? A. Yes, sir.

Q. You worked one hour on the first number as shown by the card, you worked two hours on the second number as shown by the card, and you worked six hours on the third number as shown by the card. Now, if you were working less than 9 hours that day there is a period of time there that has got to be

(Testimony of H. G. Strowenjans.)

apportioned among those three numbers, has it not?

A. Yes, sir.

Q. Now, you say you make that apportionment at night after you have finished with all three of the jobs? A. Yes, sir.

Q. You also say that when you have finished job No. 1, this hypothetical job No. 1, on which you worked one hour, you put that down on your card, is that correct?

A. I mean, I put it down on the machine and put it on the card finally when I have finished with the added time allowed for that hour's work.

Q. You do not mean then that you transfer it from the machine to the card after the work is finished on that first number?

A. I transfer it from the machine to the card at the close of my working day.

Q. Not before?

A. Not before, the total time for all of the different jobs. [810—721]

Q. Suppose you were working on three jobs one day on which the hours worked according to the card were one, 2 and 6, respectively. As a matter of fact, your day's work was only 8½ hours. Tell me how you would at the end of the day apportion it among those three jobs.

A. I could not tell you how I did apportion it.

Q. Tell me how you would apportion it if that hypothetical question was a fact. You were working 8½ hours?

Mr. FRANK.—Give him a chance to answer.

(Testimony of H. G. Strowenjans.)

Mr. McCLANAHAN.—Q. I want it to be perfectly clear. You were working $8\frac{1}{2}$ hours on this day, you had three job numbers on which you worked, the first one 1 hour according to your card, the second one 2 hours according to your card, and the third one 6 hours according to your card? A. Yes, sir.

Q. How would you apportion that half hour among those three jobs?

A. In charging time there it was customary with me not to charge any time to any particular job unless I worked a majority of 15 minutes on that job, and I did the same in figuring out this one. With one hour you would only be allowed $\frac{1}{9}$ of the extra half hour which would not be 15 minutes, so that a one-hour job would not get anything of surplus time.

Q. What did you do with the two-hour and the six-hour jobs?

A. I divided it between the balance of them.

Q. You would give the two-hour job $\frac{1}{3}$ and the six-hour job $\frac{2}{3}$ —is that it?

A. Yes, sir; about that.

Q. What kind of a card would you make out at the end of the day on that computation?

A. State your question a little more clearly. I do not understand what you mean. [811—722]

Q. I confess I do not understand you. What would be the actual time, Mr. Strowenjans, worked on those three jobs under your explanation?

A. You mean when the card shows 1, 2 and 6 hours?

Q. Yes, on three different job numbers. You have

(Testimony of H. G. Strowenjans.)

eliminated the first one, the one hour. What would be the actual time shown on the two remaining according to your calculation if you were working only 8½ hours a day?

A. The card will show 1, 2 and 6 hours. You want to get at the actual time worked on those different jobs?

Q. Yes, according to your calculation. Do you want a pencil?

Mr. FRANK.—Let the witness alone.

Mr. McCLANAHAN.—I am trying to assist the witness.

A. That is all right. I don't want the pencil.

Q. You don't want the pencil. All right.

Mr. FRANK.—When you get done with the question there is an end to it. Let the witness have a chance to answer.

Mr. McCLANAHAN.—All right.

Q. Answer the question without my pencil, Mr. Strowenjans.

A. It is customary there, and has been customary with us to not charge any amount of time less than 15 minutes. We went by a quarter, half and three-quarters of an hour in charging our time. We did not subdivide the hours into smaller fractions than that.

Q. You just told me a little while ago you divided your half hour between the two hour and the six-hour job; is that correct?

Mr. FRANK.—Finish your answer Mr. Strowenjans, as you have started.

(Testimony of H. G. Strowenjans.)

A. I don't know how I did charge that time. Were it up to me again I would charge the surplus half hour to [812—723] the six-hour job. I don't know how I did it.

Q. If you had it to do now you would say that that is the way it would be done? A. Yes, sir.

Q. The six-hour job would be charged with the half hour of extra work which did not represent any labor at all; is that correct?

Mr. FRANK.—What is the use of your arguing with the witness?

Mr. McCLANAHAN.—Q. Is that correct, Mr. Strowenjans?

A. I don't know as I could answer that question.

Mr. McCLANAHAN.—Q. I have simply attempted to interpret your answer. Is my interpretation correct? I want to know whether the half hour which does not represent any work would be charged to the six-hour job?

Mr. FRANK.—I object to the whole examination on that line because it appears that the witness says he does not know how he did it on that occasion, but he is simply testifying as to what he would do now if he had to do it again, which is immaterial.

Mr. McCLANAHAN.—Q. Answer the question, Mr. Strowenjans.

Mr. FRANK.—I object to any further examination on that line on that ground.

Mr. McCLANAHAN.—Read the question to the witness, Mr. Reporter.

A. Repeat the question.

(Testimony of H. G. Strowenjans.)

(The Reporter reads the question.)

I told you once before that I would do that now if it were up to me again. I don't know how I did at that time.

Q. No one had any supervision over your method of apportioning this time which did not represent labor? [813—724]

A. If they did I was not told of it personally.

Q. You made the apportionment yourself, did you? A. Yes, sir.

Q. Do you remember now what number of hours constituted a day's work at that time?

A. No, sir, I do not.

Q. Are you still working for the United?

A. I am not.

Q. Your cards, then, Mr. Strowenjans, do not represent the actual number of hours worked on the particular jobs?

Mr. FRANK.—I object to your arguing with the witness. You can argue that to the Court if you want to.

Mr. McCLANAHAN.—Q. Answer the question.

A. It did not at the time we were working a shorter work day, and the rate of pay was figured on the 9-hour basis.

Q. So that if you were working 8½ hours at that time the cards do not represent the actual time worked on the jobs? A. They do not.

Q. The cards were really on the question of time more for your pay. You were paid by the 9 hours?

A. Yes, sir.

(Testimony of H. G. Strowenjans.)

Redirect Examination.

Mr. FRANK.—Q. Mr. Strowenjans, I understood you to say that a 15 minutes work upon any particular job was not charged? A. 15 minutes?

Q. Yes. A. Nothing less than 15 minutes.

Q. Nothing less than 15 minutes?

A. Nothing less than 15 minutes.

Q. Therefore, if by the clock time you had been working on one job—take the illustration the gentleman has given you: supposing on one job you had been working for 40 minutes actual time, and on another job one hour and 50 minutes, and on another job for 5 hours and 50 minutes, would not the 30 minutes [814—725] naturally be absorbed in the time that was written down?

Mr. McCLANAHAN.—I object to the question as being unintelligible and suggestive if intelligible.

Mr. FRANK.—If it is unintelligible it is not suggestive.

Q. In other words, the 50 minutes would go down naturally as one hour, would it not?

A. You could not prove by me what I would do at that time.

Q. I do not know if I can or not. I am trying to find out from your statement. You charge nothing less than 15 minutes?

A. The majority of 15 minutes I said.

Q. If you worked 50 minutes on a job how would that go down?

A. As a rule, if I were charging up the time now, it would be three-quarters of an hour.

(Testimony of H. G. Strowenjans.)

Q. Three-quarters of an hour?

A. Yes, sir, actual time.

Q. If it were 55 minutes how would you charge it up? A. One hour.

Q. If it were one hour and 50 minutes how would you charge it up?

A. An hour and three-quarters; that is actual time. I would write it down.

Q. If it were an hour and 55 minutes how would you charge it? A. Two hours.

Q. Now, by that means, would not the extra half hour naturally be absorbed in the fraction of time thus charged up during the day in a great many cases?

A. I don't understand what you mean by that question.

Q. You put in actually an hour and 55 minutes, and you charge that two hours? A. Yes, sir.

Q. There is 5 minutes absorbed, is there not?

A. Yes, sir.

Q. You worked for 55 minutes and charge that an hour? A. Yes, sir. [815—726]

Q. There is another 5 minutes absorbed, is there not? A. Yes, sir.

Q. So there is 10 minutes right there accounted for out of the extra half hour on your card?

A. Yes, sir.

Q. If you have a large number of small jobs the whole half an hour would be absorbed in that way, would it not? A. Yes, sir.

Q. When you made your distribution among the

(Testimony of H. G. Strowenjans.)

different jobs, did you make any attempt to saddle it on any particular job or attempt to distribute it fairly among the jobs?

A. I attempted to distribute it fairly among the jobs.

Q. Each job was to get its fair proportion of this extra time charged up to it? A. Yes, sir.

Q. I understand you to say that your pay was based on the 9 hours a day? A. Yes, sir.

Q. But you do not know whether or not this condition existed at the time the particular work here in question was under way?

A. I don't remember what hours we were working on, what length of day.

Recross-examination.

Mr. McCLANAHAN.—Q. Suppose, Mr. Strowenjans, you had six jobs and on the first one you worked 2 hours and 50 minutes. You say you charge that job actual time 2 hours and 45 minutes?

A. Yes, sir.

Q. So there is a loss of 5 minutes, is there not?

A. Yes, sir.

Q. Suppose in the next job you work 2 hours and 50 minutes, you charge that job with the actual time, 2 hours and 45 minutes. Is that not so, the same thing? [816—727]

A. If that occurred two or three times within the one day, of course we would change the apportionment.

Q. You would change the apportionment, so it does not always follow you are going to add to the

(Testimony of H. G. Strowenjans.)

time worked on a particular job. You may deduct from the job? A. We may.

Q. You have also said that you attempted to apportion this fairly among the jobs. Do you remember my hypothetical question to you about the 1, 2 and 6 hours where you said you would throw the 30 minutes to the six hours? Do you think that is a fair apportionment?

A. Inasmuch as we did not charge any amount of time less than 15 minutes we could not very well change the apportionment.

Q. So that is your idea of a fair apportionment?

A. Yes, sir. [817—728]

[Testimony of S. M. Robinson, for Libelant.]

S. M. ROBINSON, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Robinson, you were engaged in the United Engineering Works in August and September, 1909, were you not?

A. Yes, sir.

Q. In what capacity?

A. Foreman of the toolroom.

Q. In that capacity, Mr. Robinson, did you issue orders for materials? A. Yes, sir.

Q. Did you also give out materials from the toolroom? A. Yes, sir.

Q. When you issued orders for material, how did you issue them?

A. On a yellow slip, on an order-book; order-book, it is.

Q. How would the application come to you for the material?

(Testimony of S. M. Robinson.)

A. Well, sometimes the order would come to me written; other times verbally.

Q. If it came to you written it would have the signature of the man ordering it, would it not?

A. Yes, sir.

Q. Now, Mr. Robinson, I show you stock order card C4000 and ask you what that is.

A. Do you wish me to read it off?

Q. No; whether or not it is a stock order card issued by you? A. Yes; that is a stock order card.

Q. Issued by you? A. Yes.

Q. On the date which it bears? A. Yes, sir.

Q. Under what circumstances is a card like that issued?

A. Well, they would be fixing the quadrant and it would be necessary to have two split pins.

Q. Would they get those split pins from you?

A. No. I would give them an order on the store-room for those split pins, and that is the order I would give them. [818—729]

Q. That is the order that you give them; that is your order issued by you?

A. That is my order; my signature.

Q. Where would you get the job number?

A. I would get it off of the typewritten slip on the foreman's desk in the machine-shop.

Q. In the machine-shop? A. Yes.

Q. How would you know what job number to put onto that particular slip?

A. Why, the parties that would be working on that job would be known to me personally, and would be

(Testimony of S. M. Robinson.)

known as working on that job; I would know they were working on that job, and I would also know that if they were working on that quadrant, and there was two split pins that were out of whack that they would have to have two new ones, and I would give them those.

Q. And you would get the job number by looking for it on the list? A. On the typewritten list.

Q. What is there on the card that would guide you in selecting the particular job number belonging to that particular piece of work?

A. I said, I think that I said, that the man that would come to me for these split pins would be known to me and known as working on that job at that time.

Q. Well, the job at that time that you would have in mind would not be the number, it would be the nature of the work, wouldn't it? A. Yes.

Q. And then you would go to the list to see what number belonged to that particular work?

A. I made it a business to carry around a list of the numbers in my pocket continually, no matter where I was; that is when I was in the Works I had a list in my pocket of numbers—the boat and the number or numbers, whichever [819—730] it happened to be.

Q. And would there be any description appended to those numbers where there are 2 or 3 numbers on a boat?

A. Yes; it would state what the particular numbers would be of the ship, what kind of work came under the head of that particular number, whether it

(Testimony of S. M. Robinson.)

was one part of the ship or another, or one kind of work or another, it would be stated.

Q. Then you would issue this order on the store-room? A. Yes.

Q. I show you stock card C3997 and ask you if that is issued in the same manner as just testified to.

A. Yes, sir.

Q. That is your handwriting? A. Yes, sir.

Q. I show you stock card C3996 and ask you if that is card of material issued by you at the time indicated and for the job number indicated.

A. Yes, that is all my doings.

Q. Now, when you say "yes" we are to understand you to mean that all these cards are issued by you in the same manner you have testified to respecting the first cards.

A. Yes, in the same manner, under the same conditions.

Q. If on any of these cards that I show you it should happen that the stock was issued by you out of your own stores instead of sending to the store-room, I wish you would kindly indicate it.

A. Now, let me look these over to see about that part of it. (After examination.) No, this is all storeroom.

Q. Now, I show you stock card C3994, and ask you if that is a card of material issued by you at the time indicated and for the shop number indicated?

A. Yes; storeroom also.

Q. I show you stock card C3992 and ask you if that is a card of material issued by you at the time indi-

(Testimony of S. M. Robinson.)

cated and for the shop number indicated.

A. Yes. [820—731]

Q. I show you stock card C3991 and ask you if that is a card of material issued by you at the time indicated and for the shop number indicated.

A. Same thing.

Q. I show you stock card C3976 and ask you if that is a card of material issued by you at the time indicated and for the shop number indicated.

A. Same thing.

Q. I show you stock card C3966 and ask you if that is a card of material issued by you at the time indicated and for the shop number indicated.

A. Same thing.

Q. I show you stock card C3965 and ask you if that is a card of material issued by you at the time indicated and for the shop number indicated.

A. From the storeroom.

Q. I show you stock card C3953 and ask you if that is a card of material issued by you at the time indicated and for the shop number indicated.

A. Same thing.

Q. I show you stock card C3937 and ask you if that is a card of material issued by you at the time indicated and for the shop number indicated.

A. Yes, same thing.

Q. I show you stock card C3924 and ask you if that is a card of material issued by you at the time indicated and for the shop number indicated.

A. Well, the body of this is the same thing. There is some writing there that is not my writing.

(Testimony of S. M. Robinson.)

Q. What is it? Read it.

A. It looks like "Adams Wharf."

Q. Now, read the whole thing. You can see what it is. It is an address, isn't it?

A. No. 1 paint brush No. 30. I don't know what that is unless—this part here is not my writing, but the order for the paint brush is; that don't cut any ice, anyway, whatever it is. [821—732]

Q. The description there?

A. It seems to be a description of a kind of paint brush, as near as I can see; the maker's name of the paint brush. That was done by the storeroom man, because they don't have the same kind all the time.

Q. Now, I show you stock card C3921 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. The same thing, the storeroom.

Q. I show you stock card C3920 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. The same thing.

Q. I show you stock card C3919 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. The same thing.

Q. I show you stock card C3916 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. The same thing.

Q. I show you stock card C3915 and ask you if that is a card of material issued by you at the time

(Testimony of S. M. Robinson.)

indicated and for the job number indicated.

A. Well, now, here is a card I wish to explain. It will be just as good for one side as the other. Evidently in this card I made a mistake in the number and the timekeeper has come to me to point that mistake out and I have explained it to him, and he has written over my mistaken number in his hand the right number after he has come to me and asked me about it; that is the way that it happens.

Q. Whenever he would find a mistake what on the card would indicate to him something by which he could tell whether the number was right or not?

A. Well, I don't know what that number was.
[822—733]

Q. Just look at the card there and see what there is that gives an indication of what the number should be.

A. Well, I would know it from that.

Q. Nobody knows what you mean by "that." You mean by "that" the description of the article?

A. Yes.

Q. How about what it is used on?

A. If I had the right number there, or rather having the wrong number there he knew that there was no sea valve connected with that number.

Q. That is what I am trying to get at.

A. I have written out there, you see, in full, what the material was for, and there not being any sea valve connected with that number, and finding a mistake on there he came to me to see what was the matter with it, what was the trouble.

Q. Would the two of you look it up? A. Yes.

(Testimony of S. M. Robinson.)

Q. And correct it? A. Certainly.

Q. What was the rule, Mr. Robinson, with respect to making erasures? Was there any rule observed as to whether or not a thing should be erased or simply written over to show that there was a correction?

A. No, there was no rule.

Q. Have you ever known any erasures to be made?

A. No, I don't know of any erasures being made.

Q. You have always found them written right over the original?

A. Yes, because it was quicker, I suppose. I never asked him why he did that way. I suppose because it was quicker.

Q. It is not what you suppose that is testimony.

A. All right.

Q. Only what you know. I show you stock card C3908 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated. A. That is storeroom. [823—734]

Q. I show you stock card B2934 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. The same.

Q. I show you stock card B2923 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Well, now, we come to something that I have myself. I gave this out.

Q. You gave that out yourself? A. Yes, sir.

Mr. FRANK.—I offer that in evidence.

Mr. McCLANAHAN.—I object to the offer as be-

(Testimony of S. M. Robinson.)

ing incompetent, irrelevant, immaterial, hearsay, self-serving and not binding on the respondent.

Mr. FRANK.—Q. I show you stock card B2922 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. There is something that I gave out.

Q. Gave out your own self? A. Yes.

Mr. FRANK.—I offer that in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I show you stock card B2921 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated. A. Storeroom.

Q. I show you stock card B2917 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card B2915 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom. [824—735]

Q. I show you stock card B2912 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. I gave that out.

Mr. FRANK.—I offer that in evidence.

Mr. McCLANAHAN.—Same objection.

Mr. FRANK.—Q. I show you stock card B2911 and ask you if that is a card of material issued by you at the time indicated and for the job number

(Testimony of S. M. Robinson.)

indicated. A. Storeroom.

Q. I show you stock card B2910 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card B2908 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. I gave that out.

Mr. FRANK.—I offer that in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I show you stock card C2795 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated. A. Storeroom.

Q. I show you stock card C2788 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2784 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2777 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom. [825—736]

Q. I show you stock card C2774 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

(Testimony of S. M. Robinson.)

Q. I show you stock card C2769 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2767 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2764 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2755 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2753 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2747 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2740 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. I gave that out.

Mr. FRANK.—I offer that in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I show you stock card C2738

(Testimony of S. M. Robinson.)

and ask you if that is a card of material issued by you at the time indicated and for the job number indicated. A. Storeroom. [826—737]

Q. I show you stock card C2736 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2735 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2725 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2721 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2720 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2719 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2717 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

(Testimony of S. M. Robinson.)

Q. I show you stock card C2715 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2708 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card C2706 and ask you if that is a card of material issued by you at the time indicated and for the job [827—738] number indicated. A. Storeroom.

Q. I show you stock card A1500 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1900 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1711 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1731 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. I gave these out.

Mr. FRANK.—I offer it in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I show you stock card A1733

(Testimony of S. M. Robinson.)

and ask you if that is a card of material issued by you at the time indicated and for the job number indicated. A. I gave these out.

Mr. FRANK.—I offer it in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I show you stock card A1741 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated. A. Storeroom.

Q. I show you stock card A1734 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1744 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom. [828—739]

Q. I show you stock card A1745 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1755 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1760 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. I gave these out.

Mr. FRANK.—I offer it in evidence.

(Testimony of S. M. Robinson.)

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I show you stock card A1769 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated. A. Storeroom.

Q. I show you stock card A1772 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Well, I gave this out.

Mr. FRANK.—I offer it in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I show you stock card A1780 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated. A. No, this is not mine.

Q. I show you stock card A1790 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1798 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom. [829—740]

Q. I show you stock card A1813 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1820 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

(Testimony of S. M. Robinson.)

A. Storeroom.

Q. I show you stock card A1834 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1836 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. I gave these out.

Mr. FRANK.—I offer it in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I show you stock card A1839 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated. A. Storeroom.

Q. I show you stock card A1840 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1841 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1843 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1844 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

(Testimony of S. M. Robinson.)

A. Storeroom. [830—741]

Q. I show you stock card A1846 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1856 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1858 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1886 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1895 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1897 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. I gave that out.

Mr. FRANK.—I offer it in evidence.

Mr. McCLANAHAN.—The same objection.

Mr. FRANK.—Q. I show you stock card A1466 and ask you if that is a card of material issued by you at the time indicated and for the job number

(Testimony of S. M. Robinson.)

indicated. A. Storeroom.

Q. I show you stock card A1477 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1497 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom. [831—742]

Q. I show you stock card A1492 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1494 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. I show you stock card A1499 and ask you if that is a card of material issued by you at the time indicated and for the job number indicated.

A. Storeroom.

Q. In each case where you have said "Storeroom" you mean that is your card, issued in the manner you have indicated? A. Yes, sir.

Q. And that the supplies were issued from the storeroom? A. Yes.

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Robinson, these cards that you have identified, but which have not as yet been offered in evidence are simply orders signed by you for the material called for by the card, orders

(Testimony of S. M. Robinson.)

on the storeroom?

A. Orders on the storeroom as they are written there.

Q. You are not connected with the storeroom?

A. No, sir.

Q. You give these cards when they are made out and signed by you to the man requiring the particular material and that is the end of it so far as you are concerned?

A. Yes; I do not go to the storeroom, if that is what you mean.

Q. In other words, you do not know what he did with the cards?

A. Well, any more than I kept track of the work being done and seeing that I am not issuing cards under false pretenses; I keep run or try to keep run of what is going on. [832—743]

Q. Well, if there is anything that you do, Mr. Robinson, after you have issued this card which is an order on the storeroom, I wish you would tell me.

A. Well, I keep track of the men, their names, and what they are doing, and am very particular in asking them where they are working, and how long they will be on the job, and I ask them all sorts of questions before I put my signature for any material on it.

Q. I am referring to the period of time after you have delivered the card to the man.

A. Oh, well, after that, I do not go down with the material, no; I do not follow the material down.

Q. You don't know what he does with the card?

(Testimony of S. M. Robinson.)

A. Why, certainly, I know what he does with the card.

Q. How do you know that?

A. Well, I don't know—how do you know anything?

Q. That is, Mr. Robinson, you assume that the man goes to the storeroom and gets the material called for by your order.

A. I know that the boat could not be finished and go away until that material is put into her.

Q. Well, what about your order for two pounds of white lead; would your remark apply to that?

A. Certainly.

Q. What about your order for a dozen candles; would your remark apply to that?

A. No, it would not apply to that; she could go away without the candles.

Q. Let us take card C3992, or, rather, let us take candles, for there are a number of them in your cards. A. Yes.

Q. You don't know whether he got those candles called for by that card? A. No, I don't.

Q. And, of course, you don't know, therefore, that the candles were [833—744] used on the "Hilonian"?

A. Well, no, the way you put it, I did not.

Q. That is the legal way, Mr. Robinson. You have no hack-saw blades in your toolroom?

A. Yes, I have.

Q. There is a card B2934 that you say you did not deliver; 1 dozen 12-inch hack-saw blades.

(Testimony of S. M. Robinson.)

A. I will tell you. When I give an order for 12, I know by the number that they went to the storeroom to get them, because I only keep a few for our own use in the storeroom; I never have more than a dozen at a time; just the minute they go I get them and bring them there, and by the time they are put away they are lacking, because I have issued the order for them in order to have them for use right in the toolroom; when I write out an order for 12 I know that it goes to the toolroom.

Q. What is the rule, then, with reference to the number of hack-saw blades that you issue from the toolroom?

A. I might have issued an order for as many as two dozen in some case.

Q. From the toolroom?

A. No, I do not issue any number of hack-saw blades from the toolroom.

Q. That is, the orders for hack-saw blades are filled in the storeroom? A. Yes.

Q. Always?

A. Yes. And if I send an order for a dozen hack-saw blades for the toolroom, that is charged up to the toolroom, and then a man comes for one hack-saw blade, he gets it without any order whatever, I make no account of it, for only one hack-saw blade; it is only when they have a job where they are breaking a great number of them that I issue an order for a dozen at a time. [834—745]

Q. Is that the rule of your shop?

A. That is the rule.

(Testimony of S. M. Robinson.)

Q. That is, that where a number of hack-saw blades are required you issue an order? A. Yes.

Q. On the storeroom? A. On the storeroom.

Q. When you get an order for candles—when you issue an order for candles, where do you get the job number?

A. Why, as I said in the beginning, I have the job number on my person, after I go and get the job numbers and all connected with it off of the type-written sheet.

Q. Well, let me understand; a man comes to your toolroom and says, “I want a dozen candles on such and such an hour”; do you give it to him?

A. No, just for him saying that I do not. I ask him what he is working on, what he wants with the candles, and all about it.

Q. Ask him what he is working on and what he wants with the candles?

A. Yes; if I do not know personally, if I do not know just at that particular moment that he is working on that, why I ask him all sorts of questions about it. But if I know myself personally, of my own knowledge, that he is working, why, I do not ask him.

Q. If he is working on what?

A. On the “Hilonian” or any other boat that I may issue an order for.

Q. So, if you know a man is working on the “Hilonian” at night and he comes to your toolroom and wants a dozen candles and he gives you a “Hilonian” job number, you give him the candles, do you?

(Testimony of S. M. Robinson.)

A. No, I am not there at all in the night.

Q. In the daytime, then. Let us not quibble.

A. That is what you are doing, all right. I give him an order, [835—747] yes; I believe that is the last question.

Q. In other words, you sometimes take the man's word for the job number?

A. No, I do not take the man's word for the job number.

Q. Suppose the "Hilonian" has a number of job numbers?

A. I have got it all in black and white.

Q. You have said that several times. Suppose the "Hilonian" has a number of job numbers and the man comes and you know he is working on the "Hilonian" and he says, "I want a dozen candles for 5295," which turns out to be one of the "Hilonian" job numbers, you give him the candles, do you not?

A. After I have found out what he wants the candles for.

Q. You ask him what he wants the candles for?

A. Yes, sir. Because if he was working where he did not need any candles, why, I would not give him any candles.

Q. You could tell from the "Hilonian" job numbers where the man was working?

A. Why, certainly; it says, for instance, it tells whether a man is working on boilers or on engine or on the hoist or down on the tail-shaft or on the propeller—well, I might go and might name over the

(Testimony of S. M. Robinson.)

parts of the whole ship.

(An adjournment was here taken until to-morrow, Friday, September 8th, 1911, at 11 o'clock A. M.)

[836—748]

Friday, September 8th, 1911.

[**Testimony of Charles Grotefend, for Libelant.**]

CHARLES GROTEFEND, called for libelant, sworn.

Mr. FRANK.—Q. Mr. Grotefend, where are you employed? A. Do you mean at the present time?

Q. Yes.

A. At the Standard Gas Engine Company.

Q. Were you in the employ of the United Engineering Works in September, 1909?

A. Yes, sir, I was.

Q. In what capacity?

A. As foreman of the shop, of the city shop.

Q. The city shop? A. Yes, sir.

Q. On this side? A. Yes, sir.

Q. When you did work over in the city shop here, did you keep a record of your time as you worked?

A. Yes, sir.

Q. I show you a card dated September 23d, with your name on it and ask you if that is your card for work performed on that day. A. It is.

Q. Where did you get your job numbers from?

A. From an order sheet sent down from the office.

Q. How did you keep track of the hours worked?

A. By performing the work and putting it down on a slip of paper, or at the head of the lathe, or different places where it is convenient for you to put

(Testimony of Charles Grotefend.)

your time down. In my case in particular it was a desk where I put the time down. I kept track of it right at the desk.

Q. Is that a correct record of the work performed on those several numbers on that day?

A. Yes, sir.

Mr. FRANK.—I ask that the card be marked Grotefend No. 1.

Mr. McCLANAHAN.—I object to that on the ground that it is [837—749] incompetent, irrelevant and immaterial, hearsay, self-serving, and not binding on the respondent.

(The card is marked “Grotefend No. 1.”)

Mr. FRANK.—Q. You had some men working under you in the shop? A. Yes, sir.

Q. How many?

A. Well, as high as 12 down to 3 or 4, or 2 or 3. About 3 machinists would be the least we had, and 12, I guess, was the most.

Q. You do not remember how many were *under at* this particular time, do you?

A. That I don't remember, not at that time; not the exact amount of men.

Q. Would you keep track of their work?

A. Yes, sir.

Q. In what way?

A. In the form of those time-cards, and when I would give them a job to perform the work I would look at the clock and make a record of it, and when they finished this job and came after another one I would look at the clock again and place it down

(Testimony of Charles Grotefend.)

either at the head of the lathe, or on the ticket until the end of the day when it was placed on those cards and O. K.'d.

Q. Did you go over the cards?

A. Yes, sir; every night.

Q. Every night? A. Yes, sir.

Q. Are those your initials (pointing)?

A. C. W. G.; yes, sir.

Q. Is that card of Schaackey one of your men?

A. Yes, sir.

Q. Supervised in the manner in which you have indicated? A. Yes, sir.

Mr. FRANK.—I ask that the card be marked Grotefend No. 2.

Mr. McCLANAHAN.—The same objection.

(The card is marked "Grotefend No. 2.")

Mr. FRANK.—Q. I now show you a card of September 23d, of [838—750] Nolan, and ask you if that is a card of a man working under you at that time whose work was supervised in the manner in which you have indicated, and if that contains your signature at the bottom. A. Yes, sir.

Mr. FRANK.—I ask that the card be marked Grotefend No. 3.

Mr. McCLANAHAN.—The same objection.

(The card is marked "Grotefend No. 3.")

Mr. FRANK.—Q. I now show you two cards of September 22d and 23d, with the name of Joseph Turner, and ask you if those are cards of a man working under you at that time whose work was supervised in the manner in which you have indi-

(Testimony of Charles Grotefend.)

cated, and if that contains your signature at the bottom. A. Yes, sir, those cards are all right.

Q. In the same way as you have testified to the others? A. Yes, sir.

Mr. FRANK.—I ask that the cards be marked consecutively Grotefend No. 4 and 5.

Mr. McCLANAHAN.—The same objection.

(The cards are marked “Grotefend No. 4 and 5.”)

Mr. FRANK.—Q. I now show you a card of September 23d, of John Seelos, and ask you if that is a card of a man working under you at that time whose work was supervised in the manner in which you have indicated, and if that contains your signature at the bottom. A. Yes, sir.

Mr. FRANK.—I ask that the card be marked Grotefend No. 6.

Mr. McCLANAHAN.—The same objection.

(The card is marked “Grotefend No. 6.”)

Mr. FRANK.—Q. I now show you cards of September 22d, 23d and 24th, of A. Campbell, and ask you if those are cards of a [839—751] man working under you at that time whose work was supervised in the manner in which you have indicated, and if they contain your signature at the bottom.

A. Those cards are all right.

Mr. FRANK.—I ask that the cards be marked consecutively Grotefend No. 7, 8 and 9.

Mr. McCLANAHAN.—The same objection to each card.

(The cards are marked “Grotefend No. 7, 8 and 9.”)

(Testimony of Charles Grotefend.)

Mr. FRANK.—Q. These were all machinists were they, Mr. Grotefend? A. Yes, sir.

Q. There was some material used was there, on the work in your shop? A. Yes, sir.

Q. I will show you a stock card of September 23d, and ask you if that is a card issued by you for material used in your shop at that time, on the particular job that is indicated. A. Yes, sir.

Mr. FRANK.—I ask that the stock card be marked Grotefend No. 1.

Mr. McCLANAHAN.—The same objection.

(The stock card is marked "Grotefend No. 1.")

Mr. FRANK.—Q. I show you another stock card and ask you if that is a card issued by you for material used in your shop at that time, on the particular job that is indicated.

A. Yes, sir, that is all right.

Q. In whose handwriting is it?

A. It is my handwriting.

Q. And used where?

A. That was used on a revolution counter.

Q. In your shop? A. Yes, sir, in my shop.

Mr. FRANK.—I ask that the stock card be marked Grotefend No. 2.

Mr. McCLANAHAN.—The same objection.
[840—752]

(The stock card is marked "Grotefend No. 2.")

Mr. FRANK.—Q. I will show you another stock card and ask you if that is a card issued by you for material used in your shop at that time, on the particular job that is indicated.

(Testimony of Charles Grotefend.)

A. Yes, sir; the card is all right.

Q. In whose handwriting is it?

A. That is my handwriting.

Mr. FRANK.—I ask that the stock card be marked Grotefend No. 3.

Mr. McCLANAHAN.—The same objection.

(The stock card is marked “Grotefend No. 3.”)

Mr. FRANK.—Q. I have three stock cards all dated September 23d, and ask you if those are cards issued by you for material used in your shop at that time, on the particular job that is indicated.

A. These cards are not in my handwriting. As to the material I could not remember. I could not remember as to those, but that is not in my handwriting.

Q. Did you make the drain for the thrust?

A. I think not. The drain for the thrust?

Q. Yes, fitting it. Did you fit it?

A. That I could not remember.

Q. You cannot recall?

A. That would be done down on the ship. Those fittings would be taken out of the stockroom, and whoever was working on board of the ship would get those from the storekeeper. [841—753]

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Grotefend, these stock order cards are orders for material, are they not? A. Yes, sir.

Q. Who are they honored by?

A. Honored by the storekeeper.

Q. On this side of the bay? A. Yes, sir.

(Testimony of Charles Grotefend.)

Q. Who was the storekeeper? A. Mr. Speed.

Q. So I understand these three stock cards are in your handwriting? A. Yes, sir.

Q. When you wanted material for a particular job number you would make out the order and present it to the storekeeper? A. Yes, sir.

Q. And he would fill the order? A. Yes, sir.

Q. And in the ordinary course of business you would apply that material to the job number?

A. To the job number. In case of iron or anything that is inside the shop, that I would take out there I would weigh it as I cut it off, weigh it, put it on a tag and hand the tag to the storekeeper. That is why my signature is not on that because I took the material and put the weight on that tag and handed it to the storekeeper.

Mr. FRANK.—Q. You are referring now to stock card No. 3? A. No. 3.

Mr. McCLANAHAN.—Q. Did you actually manipulate the material itself and put it into the job?

A. All the material such as on those tickets.

Q. On those three jobs? A. Yes, sir.

Q. How do you remember that now? How do you remember that you manipulated the material and put it into the job number?

A. As it is always my duty to do so. When material would come [842—754] into the shop on a job it is my duty to give these men the work, and when it comes to material the material was used and cut off and they would weigh it and give me the weight, or else I would do that myself. The weight

(Testimony of Charles Grotefend.)

was always taken, otherwise if they used anything and we did not put the weight down there it would go in the job without being charged at all.

Q. These several items of material were handed over by you to your men, were they not?

A. Yes, sir, and myself also. In this case—

Q. What are you pointing to now?

A. This card. (Pointing.)

Q. Exhibit No. 1?

A. That I would get out myself.

Q. What do you mean by that, you would get it out yourself?

A. I would write the ticket and hand it to the shipping-clerk and he would give me those materials himself.

Q. What did you do with the materials on "Exhibit No. 1"?

A. I would give them to the man who was fitting up the work, the man who was going on board the ship to do the work.

Q. You yourself would not actually put that work into the ship? A. No, sir.

Q. Is that so on "Exhibit No. 2," you would not yourself *actually* into the ship?

A. As to this here revolution counter I don't remember at the time what that was used for. I could not state what it was used for. You can rest assured that that was used because that was cut off in the shop and taken the weight of, which weighed one lb., and placed in the hands of the shipping-clerk.

Q. My question is, you do not know that that was

(Testimony of Charles Grotefend.)

used on the ship. You did not use it yourself?

A. That I could not swear to unless I saw the job. If I saw the job I could swear to it. [843—755]

Q. And that is the same in regard to No. 3?

A. Yes, sir, the same in regard to No. 3. I could not swear what that piece of iron was used for unless I saw it.

Q. Your duty was simply confined to procuring the piece from the storeroom and handing it to the mechanic? A. Yes, sir.

Q. You have identified some time-cards of men working under you, and I suppose your identification goes to the number of hours worked?

A. Number of hours worked and the performance of the work, yes, sir; and those cards are signed. Each man is supposed to keep track of his time as I give him his work. When he finishes his job he is supposed to make a record of his time on either his lathe or wherever he was working. In my case I had the desk there where I made the record.

Q. I am referring to the men under you. They kept a record of their time and put it on their cards, and you subsequently checked it up? A. Yes, sir.

Q. Does that time shown on the card purport to be the actual time worked on the job? A. Yes, sir.

Q. In each case? A. In each case, yes.

Redirect Examination.

Mr. FRANK.—Q. Mr. Grotefend, these men to whom you handed this material, were they working under your supervision? A. Yes, sir.

Q. Have you any doubt but what the material

(Testimony of Charles Grotefend.)

went into the job?

A. Not any whatever. The main doubt in a case like that is that the material will go into the job without being charged, because sometimes in getting out work in the shop they cut off a piece of steel without my knowing it, and put it into the job, and forget to take the weight of it, and it goes in the job without. In that case of course I would not know anything [844—756] about it.

Q. Was this particular material here worked up in the shop?

A. Yes, sir, except the fittings. The fittings, as far as I know, would be sent down to the ship. I don't think they would be worked up in the shop—the pipe fittings.

Q. The rest would be worked up in the shop, ready to go into a particular part of the vessel?

A. Yes, sir, such as bushings, it would be made in the shop, put into place and taken down to the ship.

[Testimony of William Macdonald, for Libelant.]

WILLIAM MACDONALD, called for the libelant, sworn.

Mr. FRANK.—Q. What is your occupation, Mr. Macdonald? A. Chief draughtsman.

Q. Do you have any men under you in your draughtsman department? A. Yes, sir.

Q. Do you supervise their work and their time?

A. Yes, sir.

Q. Also keep track of your own time?

A. Yes, sir.

(Testimony of William Macdonald.)

Q. How did you keep track of your time, Mr. Macdonald?

A. Well, I always take it down on a table at the time I commence the job, and when I leave it off, and at the end of the day I enter it up on the time-cards and turn in my own with the men's every day.

Q. How did you get the job numbers?

A. I get them on a yellow sheet from the office.

Q. I show you a card of September 1st, with your name on it, and ask you if that is your time-card entered up in the manner in which you have indicated.

A. Yes, sir, that is mine.

Q. Was it correct at the time you passed it in?

A. Yes, sir, that is all right. [845—757]

Q. You were working in the United Engineering Works at that time?

A. Yes, sir, and I am still working for them.

Mr. FRANK.—I ask that the card be marked "Macdonald No. 1."

Mr. McCLANAHAN.—I object to the offer as incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent.

(The card is marked "Macdonald No. 1.")

Mr. FRANK.—Q. I show you four cards of August 25th, 26th, 27th and September 4th, and with respect to each card, I ask you the same question as to whether they were entered up in the manner you have indicated and whether they were known by you to be correct at the time you passed them in.

A. Yes, sir, every one of these are my own and are perfectly correct.

(Testimony of William Macdonald.)

Mr. FRANK.—I will offer these in evidence, and ask that they be marked consecutively, Macdonald No. 2, 3, 4, and 5.

Mr. McCLANAHAN.—I make the same objection to each card.

(The cards are marked “Macdonald No. 2, 3, 4 and 5.”)

Mr. FRANK.—Q. You were not on the same basis as the other men in the works as to the number of hours of a day’s work?

A. We worked eight hours in the drawing-room always.

Mr. FRANK.—I offer these clock cards of August 28th, September 11th and September 25th and ask to have them marked Macdonald No. 6, No. 7 and 7½.

(The clock cards are marked “Macdonald No. 6, 7 and 7½.”)

Mr. FRANK.—Q. I now show you the card of N. Micheli, and ask you if that is a man who was working under you at that time, and whether that is his card, supervised by you and known [846—758] to be correct by you at the time it was handed in?

A. Yes, sir, it is absolutely correct or I would not have signed my name at the bottom of it, or my initials.

Mr. FRANK.—I ask that the card be marked Macdonald No. 8.

Mr. McCLANAHAN.—The same objection.

(The card is marked “Macdonald No. 8.”)

Mr. FRANK.—I ask that the clock card of Sep-

(Testimony of William Macdonald.)

tember 25th be marked Macdonald No. 9.

(The clock card is marked "Macdonald No. 9.")

Q. I show you a card of P. B. Young, and ask you if that is a man who was working under you at that time, and whether that is his card, supervised by you, and known to be correct by you at the time it was handed in.

A. The same thing with that. I put my initials on the bottom of that card, and it is correct too.

Mr. FRANK.—I offer that card and ask that it be marked Macdonald No. 10.

Mr. McCLANAHAN.—The same objection.

(The card is marked "Macdonald No. 10.")

Mr. FRANK.—I offer the clock card of September 25th, and ask that it be marked Macdonald No. 11.

(The clock card is marked "Macdonald No. 11.")

Q. I show you now the time-cards of Young of August 27th, 31st, September 1st, 2d, 4th, 7th, 8th, 10th and 11th, and ask you if that is a man who was working under you at that time, and whether those are his cards, supervised by you and known to be correct by you at the time each of those cards were handed in. A. They are all correct.

Mr. FRANK.—I ask to have these cards marked consecutively, Macdonald No. 12, 13, 14, 15, 16, 17, 18, 19 and 20. [847—759]

Mr. McCLANAHAN.—The same objection to each card.

(The cards are marked "Macdonald No. 12, 13, 14, 15, 16, 17, 18, 19 and 20.")

(Testimony of William Macdonald.)

Mr. FRANK.—I offer the clock cards of September 11th and August 28th, and ask that they be marked Macdonald No. 21 and 22.

(The clock cards are marked “Macdonald No. 21 and 22.”)

Cross-examination.

Mr. McCLANAHAN.—Q. The cards of Mr. Young and Mr. Micheli, I understand, were checked over at night by you after they had been made out, and handed to you by those respective men?

A. Yes, sir.

Q. You did not see the card before it was handed to you? A. No, sir.

Q. It was in their possession? A. Yes, sir.

Q. They kept their own time, did they?

A. They keep their time, and I also do the same.

Q. You keep your time? A. I keep their time.

Q. How do you keep their time?

A. When I give them a job I always mark it down on a pad. I have a pad for every day's work. When I give them a job I mark down the time I give it to them, and when I get it back I check the time off then.

Q. In these cards that are introduced I see there are no changes in the time after they were handed in, so I suppose the time kept by you and the time kept by the men correspond? A. Yes, sir.

Q. And this time represents the actual work done by each of the men and by yourself on the respective numbers? A. Yes, sir. [848—760]

(Testimony of William Macdonald.)

Q. That is, if you commenced the job at 2 o'clock and finish it at 3 o'clock, you put down an hour on the time? A. One hour; yes.

[Testimony of Arthur Robinson, for Libelant.]

ARTHUR ROBINSON, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Robinson, what position did you occupy at the United Engineering Works in August and September, 1909? A. Toolkeeper.

Q. Are there two toolkeepers, or two different toolkeepers?

A. Yes, sir, one was for the machinists and one for the shipyard.

Q. And you were the toolkeeper for the shipyard?

A. Yes, sir, for the shipyard.

Q. In your position of toolkeeper, did you also act as storekeeper for the shipyard?

A. Not storekeeper. I gave the orders to the men. There is only one storekeeper, Mr. Roberts.

Q. You gave the orders for the men on the storekeeper? A. Yes, sir.

Q. Where is your shop located with reference to where the vessel lay?

A. Our shop is the furthest down towards the wharf.

Q. About how far is it from the ship?

A. 150 feet, maybe.

Q. 150 feet?

A. Yes, sir, about 150 feet from the main dock.

Q. And from where you are working, can you see

(Testimony of Arthur Robinson.)

the ship and the men coming to and going from the ship?

A. Except when the ship is on drydock. I could not see from there.

Q. Is all the material issued on these cards, issued by Mr. Roberts? [849—761] A. Yes, sir.

Q. And by your order on Roberts?

A. My order on Roberts.

Q. You issue nothing yourself?

A. No, sir, I have nothing to issue. I keep nothing but the tools.

Q. How do you determine the job number for any particular order?

A. The timekeeper brings us over the job numbers to my place, to the toolroom, with the order card and leaves it there. I copy that and put it onto a piece of draughting paper, a ready reference, so that I can look at it.

Q. And when a man comes to you for certain material how do you know what number to put that material on?

A. I ask him what he is going to work on, and then there is a number for that work.

Q. Then you can consult your sheet to see what number goes to that work?

A. Yes, sir, and then put it on the card.

Q. Where is the storeroom with relation to your place? A. It is within 40 feet or less.

Q. Within 40 feet of you? A. Yes, sir.

Q. Can you see the storeroom when you are at work in your place? A. Yes, sir.

(Testimony of Arthur Robinson.)

Q. So that if a man comes to you and gets an order you can see him go to the storeroom?

A. I could if I watched him.

Q. You also see him go back to the ship?

A. I should have to watch him. I don't pay any attention to him in that way. I could do it. If I wanted to I could see him. [850—762]

Q. I now show you stock cards numbered C502, C505, C511, C512, C521, C530, C533, C540, C550, C577, C582, C590, C592, C594, C597, A685, A686, A904, A908, A909, A918, A926, A937, A945, A952, A966, A967, A997, B1004, B1005, B1006, B1012, B1014, B1018, B1025, B1026, B1032, B1033, B1038, B1041, B1049, B1057, B1061, B1062, B1071, B1075, B1076, B1079, B1081, B1078, B1087, B1090, B1092, B1096, B1097, C1103, C1108, C1110, C1111, C1116, C1117, C1118, C1123, C1127, C1147, C1142, C1152, C1156, C1163, C1173, C1175, C1180, C1185, C1199, B1501, B1506, B1507, B1509, B1510, B1514, B1516, B1522, B1530, B1546, B1548, B1549, B1550, B1555, B1560, B1566, B1571, B1572, B1576, B1577, B1578, B1580, B1582, B1583, B1584, B1591, B1599, B1801, B1803, B1804, B1810, B1814, B1828, B1839, B1854, B1867, B1871, B1880, B1884, B1894, B1897, B7401, B7403, B7414, B7402, B7413, B7412, B9551, B9552, B3601, B3602, B3607, B3608, B3610, B3612, B3616, B3621, B3622, B3629, B3631, B3632, B3635, B3638, B3649, B3646, B3651, B3654, B3656, B3658, B3660, B3661, B3664, B3667, B5601, B5604, B5609, B5612, B5614, B5617, B5618, B5621, B5622, B5624, B5626, B5627, B5628, B5633, B5634, B5644, B5646, B5655,

(Testimony of Arthur Robinson.)

B5657, B5658, B5691, B5688, B5670, B5683, B5700, B5684, B5679, B5672, B5664, B5665, B5667, B5695, C536, A923, A944, B1523, B1569, B1587, B1589, B1809, B1895, B3611, B3628, B3633, B3663, B5660, B5689.

(A recess was here taken until 2 P. M.) [851—763]

AFTERNOON SESSION.

ARTHUR ROBINSON, direct examination resumed:

Mr. FRANK.—Q. During the recess, Mr. Robinson, have you looked over these cards the numbers of which were read off this morning?

A. Yes, sir.

Q. And they are all orders made out by you in the manner in which you have testified to?

A. Yes, sir.

Q. Orders on the storeroom?

A. On the storeroom, yes.

Mr. FRANK.—That is all.

Mr. McCLANAHAN.—I want to suggest to you, Mr. Frank, that you have not offered these in evidence.

Mr. FRANK.—I understand that.

Mr. McCLANAHAN.—Do you intend to offer them?

Mr. FRANK.—Yes.

Mr. McCLANAHAN.—But not through this witness.

Mr. FRANK.—Not just yet. You can cross-examine the witness, if you want to.

(Testimony of Arthur Robinson.)

Mr. McCLANAHAN.—No cross-examination.

Mr. FRANK.—I think for the purpose of future reference, that these ought to be fastened together in some way and so marked that when we come to take them up again we will not have to go through that detail of numbers, if that is agreeable to you, Mr. McClanahan.

Mr. McCLANAHAN.—They are already identified.

Mr. FRANK.—That means though that we will have to go through the details again.

Mr. McCLANAHAN.—I refrain from cross-examining the witness because they are not offered in evidence.

Mr. FRANK.—That is no excuse for not cross-examining the [852—764] witness because this witness is a witness to a material part of these exhibits that will be offered in evidence. You are perfectly free to cross-examine him at this time because I tell you they will be offered in evidence.

Mr. McCLANAHAN.—I do not care to cross-examine him now.

Mr. FRANK.—Suit yourself about that. Now, I have fastened them together, and I offer them in evidence and ask that they be marked A. Robinson's Stock Cards No. 1.

Mr. McCLANAHAN.—I object to the offer upon the ground that it is incompetent, irrelevant, immaterial, hearsay, self-serving and not binding on the respondent. I ask that my objection apply to each of the several slips comprising the whole exhibit.

(Testimony of Arthur Robinson.)

(The stock cards are marked "A. Robinson's Stock Cards, Exhibit No. 1.")

Mr. FRANK.—Is that all?

Mr. McCLANAHAN.—That is all.

[Testimony of William Lentz, for Libelant.]

WILLIAM LENTZ, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Lentz, were you in the employ of the United Engineering Works in August and September, 1909? A. Yes, sir, I was.

Q. In what capacity?

A. In the pipe-fitting shop, steam-fitting.

Q. Do you remember during that year working on board of the steamer "Hilonian," steam-fitting?

A. Yes, sir.

Q. Did you use any material on board of the "Hilonian" when you were doing this steam-fitting?

A. Yes, sir. [853—765]

Q. Where did you get the material?

A. Out of the storeroom.

Q. Out of what storeroom?

A. The one that Mr. Roberts has charge of.

Q. Did you personally use the material on board of the ship?

A. I was acting as the foreman, and I had men working under me, and they used it.

Q. State whether or not they used it under your supervision. A. Yes, sir, that is it.

Q. I hand you a bundle of stock cards, and I ask you to go over these stock cards in detail and state whether or not they contain a statement of material

(Testimony of William Lentz.)

used by you on board of the "Hilonian" for steam-fitting.

A. You mean that was used by me and the men?

Q. Yes, under your supervision, so that you know it was used. A. (After examination.) Yes.

Q. Were these orders made out by you, Mr. Lentz?

A. Some of them were.

Q. And some of them by whom?

A. Some of the other men employed under me.

Q. Some of the other men? A. Yes, sir.

Q. So that wherever your name appears here, without any "per" attached to it, it is made out by you, is that it?

A. No, sir, there are one or two of them there that are not written by me with the "per" on it.

Q. Just go through them now and indicate by the numbers which were not written by you.

A. You mean the ones without the "per"? These are not written by me.

Q. Indicate those that were not written by you. I think they [854—766] are less than those that were; just call them out.

A. The ones not written by me?

Q. Yes.

A. A3272, A3275, A3277, F4958, F4959, F4960, F4993, A6005, A6033, A6037, A6038, A6066, A6067, A6070, A6077, A6083, A6085, A6089, A6090, A6092, A6096, A6108, A6111, A6142, A6184, A6186, A6187, A6189, A6192, A6194.

Q. And the balance were written by you?

A. Yes, sir.

(Testimony of William Lentz.)

Q. Now, in the case of the other orders to which your name is attached per someone, do you know whether or not that material came on board and was used on the job? A. Yes, sir.

Q. You know that it was? A. Yes, sir.

Q. And you know on what job it was used?

A. Yes, sir.

Q. How did you determine these job numbers to be put on those slips?

A. I had numbers in my place where I was, stating what the article was to be done, or the work to be done.

Q. That is, you had a list from the office?

A. From the office, yes.

Q. And the numbers, and what work was to be done under those numbers? A. Yes, sir.

Mr. FRANK.—I now offer these in evidence, and I think it will be just as well to read the numbers off first, and then have it marked as a single exhibit, the same as I did in the other case.

Mr. McCLANAHAN.—I object to the offer as being incompetent, irrelevant, immaterial, hearsay, self-serving and not binding on the respondent.

Mr. FRANK.—The numbers are A3272, A3275, A3277, A3301, A3302, F4958, F4959, F4960, F4967, F4968, F4993, A6005, [855—767] A6018, A6019, A6020, A6033, A6037, A6038, A6041, A6053, A6054, A6055, A6058, A6059, A6065, A6066, A6067, A6068, A6069, A6070, A6072, A6073, A6077, A6078, A6079, A6080, A6081, A6082, A6083, A6084, A6085, A6086, A6087, A6088, A6089, A6090, A6091, A6092, A6093,

(Testimony of William Lentz.)

A6094, A6095, A6096, A6097, A6098, A6108, A6111, A6142, A6158, A6181, A6184, A6186, A6187, A6189, A6192, A6194 and A6496.

I ask that that be marked Lentz Stock Cards No. 1.

(The cards are marked "Lentz Stock Cards No. 1.")

Cross-examination.

Mr. McCLANAHAN.—Q. Where were these yellow slips kept on board of the "Hilonian" at the time they were used by you? A. These yellow slips?

Q. Yes.

A. They were left in the pipe-shop on a desk.

Q. Where is the pipe-shop? On the ship or off of the ship? A. Off of the ship.

Q. Did you do any work on the ship?

A. Yes, sir.

Q. Did you work all the time on the ship?

A. All the time on the ship.

Q. These little yellow slips were left on the desk in the pipe-shop room or the table?

A. In a book form, as they are, only they have a stub to them. They are left on a bench.

Q. Now, when material is wanted, the man goes to this book and fills out the slip and takes it to the store-room, does he, and gets it?

A. The man fills it out when I would not be there.

Q. You are on the ship, I understand?

A. I am not on the ship all the time.

Q. I asked you that question, if you were on the ship all the time, and you said, yes.

A. Not all day long. I am off and on. When I

(Testimony of William Lentz.)

have a job to [856—768] do on that boat I go down and measure it, and when I have got it all measured up, and any cutting to do, I take it to the shop and cut it.

Q. But when material is wanted for use on the ship you do not always go to the office on shore where the slips are kept to make out the slips, do you yourself, sometimes you send a man, don't you?

A. You mean when I want material myself?

Q. Yes.

A. Generally, as a rule, when we go to look at a job we would figure out what we need, and then we get what we need for the job, and we get this book and write out our orders.

Q. You say "we"? A. I myself.

Q. Or someone else?

A. The men that were working under me at the time.

Q. When you do not go to the book and write out the order, another man under you does?

A. Yes, sir.

Q. That accounts, does it, for the fact that some of these slips are not written by you? A. Yes, sir.

Q. That is the way it occurred?

A. That is the way it occurred.

Q. In working on the ship are you and your men always working together?

A. No, sir, some men might be working amidships, other men might be working aft, and other men might be working forward.

Q. So that you know they are all working on the

(Testimony of William Lentz.)

ship, but you do not always know just where all of them are?

A. Oh, yes, I do. They are working on the ship.

Q. You know just where they all are?

A. I know where they are working.

Q. Your remembrance of this lot of material shown by these cards, and your remembrance of its use on the "Hilonian," is [857—769] dependent entirely on your examination of the cards, is it not?

A. Yes, sir.

Q. You could not, of course, remember this material that is put in there so long ago unless you had the cards to assist your memory?

A. I have done a whole lot of it myself and I could pretty nearly place it.

Q. But the cards assist your memory?

A. Yes, sir.

Q. The work that is not done by you with the material that is shown by these cards, how can you remember that work as having been work put in to the "Hilonian"?

A. I went around and seen them jobs; if I did not handle the job I seen that the job was in, and I seen that the men were working on it.

Q. You do not remember, now, going around and seeing, for instance, that that 10-5½ inch by 2 inch bolts were put in the ship at any particular place?

A. Does it not say where it is used?

Q. That is the point. The card does say where it is used.

A. Yes, sir.

Q. And that assists your memory in saying that

(Testimony of William Lentz.)

the card is right, does it not? A. Yes, sir.

Q. And if it were not for the fact that the card said where it was used, you could not remember it?

A. I could come pretty near it.

Q. You could not do it?

A. I could come pretty near doing it.

Q. What do you mean by "you could come pretty near doing it"?

A. If you would read something I could come pretty nearly placing it. [858—770]

Q. Without looking at the card? A. Yes, sir.

Q. Here is one, "3-inch flange," appearing on your card 3275. A. 3 lbs., is it not?

Q. "3-inch flange, 3 lbs." A. 11½, 3 lbs.

Q. No, I am reading from the card. It is "3-inch flange, 3 lbs." Where was that put?

A. Read some more on that paper.

Q. But the others are not flanges.

A. Read some more and I might be able to tell you where it was placed.

Q. Yes. It is the association on the card that enables you to tell where it is put.

Mr. FRANK.—Do not argue with the witness.

Mr. McCLANAHAN.—I will conduct my examination just as I please.

Mr. FRANK.—You will not. You will conduct your examination according to legal rules. If I could object and if I could get a ruling you would be stopped.

Mr. McCLANAHAN.—You can object, but I will do as I please.

(Testimony of William Lentz.)

Mr. FRANK.—If you do right you will attempt to conduct it legally.

Mr. McCLANAHAN.—That is just what I am doing, in my opinion.

Mr. FRANK.—Very well.

Mr. McCLANAHAN.—Mr. Reporter, read what I suggested to the witness before the interruption was made.

(The Reporter reads the question.)

Q. Is that right?

A. That is the word stating on the bottom what it is used for, by the association?

Q. No. You asked me to read some other items on this card, I [859—771] am examining you on, so as to enable you to tell me where the 3-inch flange was used. I asked you if it was not the association of the 3-inch flange with other work on the card, that enables you to tell where the 3-inch flange was put. I am perfectly frank to tell you I am examining you on a card that was not written out by you but was written out by somebody else.

A. I asked you if you would read some more on the card that I could collect them together with the 3-inch flange.

Q. I will do that, but you cannot tell me where the 3-inch flange went until I do that?

A. No, sir, I guess I could not.

Q. Then I will read some more; “One 3-inch to 1½ bushing; one 1½ inch union black”; does that help you any?

A. If I am not mistaken, I think that was used

(Testimony of William Lentz.)

on the air line or steam line.

Mr. FRANK.—Why not give him the benefit of knowing whether he has answered right or not?

Mr. McCLANAHAN.—I do declare. That is the funniest suggestion I ever heard of. You can re-examine him.

Mr. FRANK.—Give me the number of the card.

Mr. McCLANAHAN.—A3275.

Q. If that 3-inch flange was used on the air line or the steam line, how do you determine that it was, now, because I have read other articles to you that must necessarily have been used on an air line or steam line? A. I did not catch that quite right.

Q. Read the question, Mr. Reporter. (The Reporter reads the question.) In other words, Mr. Lentz, did some of the articles that I have read to you, aside from the flange, necessarily apply to the air line or steam line? [860—772]

A. Yes, sir, they did.

Q. That is what I thought. It was that fact of association that enables you now to say that the flange might have been used on the air or steam line.

A. Might have been used; yes.

Q. Now, I ask you in regard to your card, A3277, another card made out by someone else, and ask you if you can tell me now where one 2-inch sleeve, shown by that card, was used.

A. I could not tell you that.

Q. Can you tell me where one 2-inch ell was used?

A. One 2-inch elbow. It was liable to be used on any part of the ship where a 2-inch line runs.

(Testimony of William Lentz.)

Q. So that you would not want to swear now that the one 2-inch sleeve, and one 2-inch ell shown by this card were actually used on any part of the ship, would you, it being a card not in your handwriting.

A. If it is on that card it was used on the boat.

Q. Why do you say that?

A. Because I know it was.

Q. How do you know? A. How do I know?

Q. Because the card says so?

A. The card says so; yes.

Q. And that is the reason you know?

A. Yes, sir.

Q. In other words, you have faith in these cards that makes you speak for their verity now?

A. Yes, sir.

Q. Even though the cards may show work that you cannot identify now?

A. That is a pretty long time back to think of all that stuff.

Q. I know it is, but you verify these cards now because you have faith in the cards themselves.

A. Yes, sir.

Q. And not because you can remember back?

A. I can remember back lots of it. [861—773]

Q. And place all of the work?

A. Not all of it. I do not say all of it.

Q. For instance, here is a card made out in your own handwriting, F4967 "one flange 3-inch." I will read you the whole card: "4 11½ black ell. 40 feet 11½ black pipe. 4½ inch black plug," and on the card there is no designation where it was used or

(Testimony of William Lentz.)

what it was used on. It would be pretty hard for you to remember now where that was used, would it not?

A. Yes, sir, it would. I might if I had the card pretty nearly study it out. Is there no marking on that?

Q. No marking. I will show you the card. So that looking at the card does not assist you, does it, in telling you where it was used?

A. No, sir, it does not assist me in that way now; no.

Q. I will show you another card, Mr. Lentz, F4968, and I pick these cards out at random. This card is in your handwriting, and I suppose you can tell where that material was used? A. Yes, sir.

Q. You can tell that because it shows on the card?

A. Yes, sir.

Q. And that is the only way you can tell, is it not?

A. Yes, sir.

Q. And this being in your handwriting, you know that it was used on the air line, don't you, because you probably used it yourself?

A. Yes, sir, I used it myself.

Q. You used it or saw that it was used?

A. Yes, sir.

Q. Because you got the material?

A. Yes, sir.

Q. When it comes to a card where the card has been made out by somebody else, and there is no mark of identification on it [862—774] as to where it was used it becomes a difficult matter for

(Testimony of William Lentz.)

you to verify the card, does it not?

A. Right now, yes.

Q. And your only verification of it comes from the fact that it is on one of the United Engineering cards written by a man under you at the time?

A. If that man wrote that card out and put that number for that job on there that stuff went down to that job.

Q. That is your belief, is it?

A. Yes, sir, I believe it went down there; I am sure of it.

Q. I see a card here made out by somebody, A6037 "5 lbs. rags." Can you tell me where they were used?

A. Yes, sir, in the pipe-shop, on the machines. When a man handles that pipe and stuff his hands get dirty and he cannot handle everything with his hands if they are dirty, and he uses the rags to wipe them off.

Q. These rags were then used in the pipe-shop?

A. For the handling of the pipes for the boats.

Q. What are these check marks that I find on some of the cards? What do they mean?

A. I don't know what they are.

Q. You did not put them there?

A. No, sir.

Q. Could any man under you on this job go to the place where these slips were kept and make one out, and have it honored at the storeroom?

A. Men working for me make one out, and take it to the storeroom and have it honored?

(Testimony of William Lentz.)

Q. Yes. A. He could, yes.

Q. He could do that without consulting you?

A. I trust the men, yes.

Q. The card is made out completely before it is taken to the storeroom, is it? That is, there is placed on it the date, [863—775] the job number and the material wanted before it is taken to the storeroom? A. Yes, sir.

Q. The storekeeper simply receives that card and honors it, does he not?

A. When he has got the numbers of the jobs on it, and got the signature of the foreman then he takes it. If he has not got the numbers he hollers about the number and makes them get the number.

Q. If the card has a number on it and the signature of the foreman written by him in person or someone else, then it is honored without question at the storeroom? A. Yes, sir.

Q. In other words, the storekeeper has not any questions to ask.

A. As long as he sees the signature on it.

Q. And the job number on it?

A. And the job number on it.

Redirect Examination.

Mr. FRANK.—Q. Mr. Lentz, you were working on this job, were you not? A. Yes, sir.

Q. You knew what material was necessary in order to do the work that was called for under the specifications that were handed to you?

Mr. McCLANAHAN.—That is objected to as improper redirect examination, leading and suggestive.

(Testimony of William Lentz.)

A. Yes, sir.

Mr. FRANK.—Q. You say you are sure that this material, whether it is on an order slip signed by you or signed by one of your men, went into that job? A. Yes, sir.

Q. By what means are you sure of that?

A. By what means am I sure of it?

Q. Yes.

A. Well, generally as a rule when the job came up the engineer when he had the job, or the machinist foreman when he had the job, came to me and I went down and looked at it and [864—776] I went to work and got the man to do the job, brought him down and showed him what was wanted. Then he came to me for the fittings, if I was there, if not he would write them out himself.

Q. You knew what fittings were necessary for the job? A. Yes, sir.

Q. Would you superintend the job to see that it was properly done?

Mr. McCLANAHAN.—That is objected to as leading and suggestive.

A. Yes, sir.

Mr. FRANK.—Q. And when you superintend the job you would know whether or not that material had gone into it?

Mr. McCLANAHAN.—I object to the question as leading and suggestive.

Mr. FRANK.—It may be.

A. Yes, sir.

Q. Now, taking up A3252, “material used on

(Testimony of William Lentz.)

blanking''? A. Blanking flanges.

Q. Is that material necessary for that purpose?

A. Yes, sir.

Q. You know that is necessary for blanking?

A. Yes, sir.

Q. You know also that blanking was done?

A. Yes, sir.

Q. Can you say the same of each one of the other cards that do not bear your individual signature?

Look them over. A. Yes, sir.

Q. There is A3275? A. Yes, sir.

Q. A3277? A. Yes, sir.

Q. F4958? A. Yes, sir.

Q. F4959? A. Yes, sir. [865—777]

Q. Now, without my giving each one of them, go through each one of the cards there that do not bear your individual signature and state whether or not you know that that material was necessary for the job.

Mr. McCLANAHAN.—I object to the question as incompetent, irrelevant and immaterial.

A. (After examination.) Yes.

Mr. FRANK.—Q. Have you gone through those?

A. Yes, sir.

Q. What is the answer?

A. I find them correct.

Q. By "correct" you mean that they were necessary for the job? A. Yes, sir.

Q. You said something about being on and off the ship. What do you mean by that?

A. Just as I said. I went down to figure up the

(Testimony of William Lentz.)

job and measure up the job, got it measured and came back to the shop and got my pipe.

Q. After you got your pipe, what would you do?

A. Take it to the shop and cut it, and then take it down on the boat.

Q. Take it down on the boat? A. Yes, sir.

Q. So far as the men who were working in other parts of the ship were concerned, what did you do towards supervising them?

A. I went around to see how they were getting along with this job. When they got through with their job they came and told me and I got another job for them.

Q. Did you examine their jobs when they got done?

Mr. McCLANAHAN.—I object to the question as leading and suggestive.

A. Yes, sir. [866—778]

Mr. FRANK.—Q. So that you kept track of all of your men no matter what part of the ship they were in?

Mr. McCLANAHAN.—I object to the question as leading and suggestive.

A. Yes, sir.

(An adjournment is here taken until Monday, September 11th, 1911, at 9:30 A. M.) [867—779]

Monday, September 11th, 1911.

[Testimony of Henry Mockel, for Libelant.]

HENRY MOCKEL, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Mockel, you were working with the United Engineering Works in August and

(Testimony of Henry Mockel.)

September, 1909? A. Yes, sir.

Q. In what department?

A. In the anglesmith department.

Q. What were you—helper? A. Helper.

Q. You are not with the Engineering Works now, are you? A. No, sir.

Q. When you were doing that work, where did you get your job numbers? A. Through Gardiner.

Q. What did you do with them? Did you make any record of them at all?

A. Only on a furnace-head, that is all.

Q. On a furnace-head? A. Yes, sir.

Q. How did you keep your time?

A. On the furnace-head until the evening.

Q. How did you note it? How did you know what time you began on the job and what time you ended?

A. I generally looked at my watch whenever I started.

Q. And when you stopped, what did you do?

A. I looked at the watch; not every time.

Q. How did you tell then when you did not look at your watch? Who was working with you?

A. Haglund.

Q. And who else? A. Gardiner.

Q. All three of you working on the same piece and at the same time?

A. All three of us working on the same piece and at the same time.

Q. And all kept your time together?

A. We always kept our time together. [868—780]

Q. That was on this furnace-head?

(Testimony of Henry Mockel.)

A. On this furnace-head.

Q. When you got done with the piece if you did not look at the watch, would somebody else look at the time?

Mr. McCLANAHAN.—I object to that as leading and suggestive.

A. No, sir, there was no one else had any time with them. I was the only one of the three that had a watch.

Mr. FRANK.—Q. You handled the watch?

A. I had my own watch.

Q. How was it that you did not look at your watch when you stopped? How would you tell on those occasions how many hours you worked on a particular piece of work?

A. I could not answer that question. I generally got it from Gardiner. I got that time from Gardiner.

Q. You got it from Gardiner? A. Yes, sir.

Q. You were working in the blacksmith-shop, weren't you?

A. Attached to the furnace in the blacksmith-shop.

Q. Do you know whether or not there was a time-piece or clock in the blacksmith-shop?

A. I don't remember that.

Q. You don't remember? A. No, sir.

Q. I will show you cards dated August 30th, September 7th, 8th, 10, 12th, 13, 14th, 15th, 16th, 18th, and either the 20th or 21st, I don't know which it is—I think it is the 21st and the 23d—and ask you if these are cards made out by you at that time, in your

(Testimony of Henry Mockel.)

own handwriting.

A. (After examination.) Everything is my writing on it, but these red marks where it has been changed.

Q. The red marks? A. The red ink marks.

Q. When were these cards made out?

A. In the evening.

Q. From what?

A. From the time in the morning, do you mean?

Q. No. I mean, where did you copy them down from? [869—781]

A. Where we were working in the shop.

Q. I mean, what did you copy them from? You had a record, you told me.

A. Yes, sir, from the boiler-head—I meant to say the furnace-head.

Q. You say “we.” Do you mean you and Gardner and Haglund? A. Yes, sir.

Q. You had one record for all three of you?

A. Yes, sir.

Q. And each of you copied from that record; is that right? A. Yes, sir.

Mr. FRANK.—I offer these cards in evidence and ask that they be marked respectively Henry Mockel No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, consecutively.

Mr. McCLANAHAN.—I object to the offer upon the ground that the cards are incompetent, irrelevant, immaterial, hearsay, self-serving; not binding on the respondent, and each of them.

(Testimony of Henry Mockel.)

(The cards are marked "Henry Mockel No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13.")

Mr. FRANK.—Q. After you had written the cards, what did you do with them?

A. Do you mean where I put them into?

Q. Yes.

A. In the box in the evening when we were going out.

Q. In the office? A. Yes, sir.

Mr. FRANK.—I offer the clock cards of September 11th and September 25th, and ask to have them marked Henry Mockel 14 and 15.

(The clock cards are marked "Henry Mockel No. 14 and 15.")

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Mockel, who would do the writing on your furnace-head?

A. Why sometimes I would do it and sometimes Haglund and sometimes Gardiner. [870—782]

Q. No particular man did that?

A. No particular man.

Q. What is it exactly that you would put down on the furnace-head when you completed the work?

A. I put down just the piece of work we were working on and the number. Sometimes we would put the number first and the piece afterwards.

Q. And you would carry the time when you looked at your watch, in your head, would you?

A. Yes, sir.

Q. You don't just remember now how you got the time, when you did not look at your watch after it

(Testimony of Henry Mockel.)

was completed?

A. Gardiner was the one that told me to put the time down when I did not look.

Q. You don't know where he got his time?

A. No, sir, I could not tell you.

Q. Was he your boss or foreman?

A. He was the boss.

Q. Did you get your finishing time for the particular jobs from him always?

A. You mean at 5 o'clock?

Q. No, I mean when you finished a particular job, if it was not quitting time, did you get your finishing time from him on that job always?

A. No, sir, not always.

Q. Sometimes you would get it from your own watch?

A. Yes, sir; I would look at my watch and tell him about it.

Q. When you did not look at your watch and tell him, he would tell you? A. He would tell me.

Q. And you don't know where he got it from?

A. No, sir, I don't.

Q. But you would put down the time when he told you, on the cards? A. No, sir.

Q. You cannot, by looking at the cards now, tell the cards that you have last referred to, that is, the cards that show time [871—783] given to you by Gardiner? A. No, sir, I could not.

Q. You could not tell by looking at them now?

A. No, sir.

Q. Some of these cards may represent the time

(Testimony of Henry Mockel.)

taken by yourself, and some may represent the time told you by Gardiner; is that right? A. Yes, sir.

Q. Do you remember Mr. Gardiner's initials—his given name?

A. I used to call him Charlie, but he always saw my time before it went in every night.

Q. We will say you are now working on a day when you have a number of job numbers. You commence on the first one and you finish it up, say, in an hour and a half after commencing. Do you carry that hour and a half in your head and wait until night to put it down? A. Yes, sir.

Q. You do not put it down anywhere.

A. No, sir, I have not put it down.

Q. Say the second job; if that takes a half an hour, you bear that in mind?

A. I bear that in mind.

Q. When you did look at your own watch to ascertain the time that you were working on a particular piece, did you figure out the exact time that you worked on it?

A. No, sir, not right to the minutes or anything like that.

Q. Within a minute or so?

A. No, sir; not within a minute or so.

Q. Did you have a rule or practice or custom with reference to putting down the time when you looked at your watch and put it down yourself?

A. I will tell you in fact I did not know much about the time. I was not working at it very long. That is about all the work I did do over there, so

(Testimony of Henry Mockel.)

right after that I left the place; as soon as the job was finished I left the place, so I don't remember exactly about how the time-cards were made. In fact, I never read the rules on the back, anyway.
[872—784]

Redirect Examination.

Mr. FRANK.—Q. Now, let us see whether I understand you, Mr. Mockel. On your direct examination you said that you took the time, and when you finished the job you put down the length of time you worked on each job on the furnace-head. On your cross-examination this gentleman asked you whether you put it down that way or not, or whether you carried it in your head until night. You said you carried it in your head until night. Which is right? A. I carried it in my head until night.

Q. What did you put the job number down for if you did not put your time down?

A. To keep the number of each job that we were working on.

Q. What did you look at your watch for?

A. To keep the time in my head.

Q. To keep the time in your head? A. Yes, sir.

[Testimony of Joseph Larraondo, for Libellant.]

JOSEPH LARRAONDO, called for the libellant, sworn.

Mr. FRANK.—Q. You were working in August and September, Mr. Larraondo, 1909, in the United Engineering Works? A. Yes, sir.

Q. As a machinist?

A. Yes, sir, as a machinist.

(Testimony of Joseph Larraondo.)

Q. How did you keep your time that you worked on the several jobs?

A. I always used to carry a piece of paper in my pocket; as soon as I started to work on a job I wrote down the time. When I got through with it I wrote down how long I worked on it. After working hours were over I wrote it down on my time-card.

[873—785]

Q. Where did you get your job numbers from?

A. From the drawings.

Q. From the drawings?

A. That is from the sketch that they gave us in the shop.

Q. From the sketch?

A. Sometimes it was painted on the job with white lead.

Q. It was painted on the job with white lead?

A. Yes, sir.

Q. I now show you a series of cards dated September 12th, 13th, 14th, 15th, 16th, 17th, 20th and 21st, being part of "Adamson Exhibit No. 39," and ask you to look over them and state whether or not they are in your handwriting and each of them made out in the manner you have just testified to.

Mr. McCLANAHAN.—I object to the question upon the ground that the cards have already been identified by Adamson and form part of his Exhibit No. 39, on the ground that it is cumulative, and on the ground that further examination on the cards is encumbering the record. A. They are all mine.

Mr. FRANK.—Q. All yours? A. Yes, sir.

(Testimony of Joseph Larraondo.)

Q. Made out in the manner in which you have testified to? A. Yes, sir.

Mr. FRANK.—I reoffer these cards in evidence, the same being part of “Adamson Exhibit No. 39.”

Mr. McCLANAHAN.—I object to the offer on the ground that they are incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent.

Mr. FRANK.—Q. Now, I show you cards dated respectively August 31st, September 1st, 2d, 3d, 4th, 7th, 10th and 11th, being part of “Adamson Exhibit No. 40,” and ask you whether those are in your own handwriting and made out in the manner you have already testified to. [874—786]

Mr. McCLANAHAN.—I object to the question upon the ground that the cards have already been identified by Adamson and form part of his exhibit “No. 40,” upon the ground that it is cumulative, and on the ground that further examination on the cards is encumbering the record.

A. Yes, sir, they are all mine.

Mr. FRANK.—Q. They are all yours?

A. Yes, sir.

Q. Made out in the manner you have testified to?

A. Yes, sir, in the same manner.

Mr. FRANK.—I reoffer these cards in evidence, the same being part of “Adamson Exhibit No. 40.”

Mr. McCLANAHAN.—I object to the offer upon the ground that it is incompetent, irrelevant, immaterial, hearsay, self-serving and not binding on the respondent.

(Testimony of Joseph Larraondo.)

Cross-examination.

Mr. McCLANAHAN.—Q. Are you still working for the United Engineering Works? A. Yes, sir.

Q. Do you keep your time now as you did then?

A. Yes, sir, the same thing.

Q. Did anybody check over your time where you entered it on your card?

A. The card is checked in the office, I suppose.

Q. What did you use to keep your time with, a watch or clock? A. A clock.

Q. To put down on this little slip of paper the time you commenced the job? A. Yes, sir.

Q. And you would look at the job when it was finished? A. Yes, sir, that is what I used to do.

Q. What did you put down then?

A. Just so many hours that I worked on the job.
[875—787]

Q. So if you commenced at 10 o'clock and stopped at 11, you would put down one hour? A. Yes, sir.

Q. And so on until you had used up the nine hours? A. Yes, sir.

Q. Did anyone tell you to keep this time on a slip of paper?

A. Nobody did, but I don't want to bother with the time-card, I don't want to get it dirty.

[Testimony of David Doig, for Libelant.]

DAVID DOIG, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Doig, you were employed in the United Engineering Works in August and September, 1909? A. Yes, sir, about that time.

Q. In what capacity?

(Testimony of David Doig.)

A. As a machinist, when I first went there.

Q. I mean in August and September in what capacity were you, in 1909? A. In what capacity?

Q. Yes. You were foreman, weren't you?

A. Not at that time when I first went there.

Q. I am not asking you about when you first went there in August and September, 1909.

A. Yes, sir, foreman.

Q. You are not over there any more, are you?

A. No, sir.

Q. When acting as foreman over there, I presume your business was to superintend the work of the machinists at the machines. A. Yes, sir.

Q. How did you keep track of your time?

A. I kept a record of it with a little tag-book I had in my pocket of certain jobs, certain numbers, all day long.

Q. Well, would you be a long time at one job, or were you passing from job to job?

A. Job to job all day long. [876—788] It might be 5 or 10 minutes or a quarter of an hour, and go back again; keep going backwards and forwards all day long on certain numbers.

Q. There were times when there was only one number that you were working on, was there not?

A. No, sir, there would probably be 20 or 30 numbers during the day.

Q. I show you a card bearing your name, of September 12th, in which there is only one number on it. Did you give all your time to that number on that day?

(Testimony of David Doig.)

A. I don't know anything about that.

Q. You don't know? A. No, sir.

Q. Why don't you know?

A. The timekeeper made my time out. I give him the number of my jobs every morning, the jobs I had been working on during the day, and the time on different numbers.

Q. You would give him the numbers you were working on and the time you were working on each number?

A. Just on a slip, and pass it in every morning.

Q. And he would copy it on to the time-card?

A. He would put it down there.

Q. If that is so, do you mean to say there was more than one number on the slip of that day?

A. Oh, my, yes; in cases there were.

Q. On this particular day?

A. On that particular day? (After examination.) I must have been working on that job all day.

Q. In the other cases where there are two or three numbers, I will show you a card of August 27th, would you be working upon those numbers and no others during that day?

A. I had been working on these numbers sure all day long, backwards and forwards. [877—789]

Q. Then, as I understand you to say, you made out your numbers and the time you put in on each number and passed them in on a slip?

A. On a slip to the timekeeper and he made the cards out.

(Testimony of David Doig.)

Q. Instead of your copying them on to the cards yourself? A. Yes, sir.

Q. In the case where you would be working on two or three different numbers, and passing from one to the other, how did you keep track of the time that was to be charged to each number?

A. I just had to divide it up the best I knew how. It was a hard thing for me to do. I had gone around the shop all day from one to another and had to divide it up the best I knew how. I could not stay on that particular job for an hour or two at a time.

Q. When you did divide it up what can you say with reference to the fairness with which you divided it up?

A. Just as honestly as I possibly could. If the job was a hard job to contend with I had to put more time in with it, and my time was more taken up with that job, my time went down on that particular work. All day long I had to contend with Mr. Purser, and he chased me all day long around the shop.

Cross-examination.

Mr. McCLANAHAN.—Q. How long have you been in the employ of the United Engineering Works?

A. About 11 years; somewhere about that.

Q. You are still with them, are you not?

A. Yes, sir.

Q. Employed on this side of the bay?

A. Yes, sir.

Q. Your duties were to go about your shop from

(Testimony of David Doig.)

one place to another, and from one man to another, and see that he was doing his work right?

A. Yes, sir. [878—790]

Q. Superintending the work? A. Yes, sir.

Q. You don't remember now, do you, particularly the work that you were doing in the shop in August and September, 1909? A. No, sir, I could not say.

Q. You had a good many shifts there, didn't you?

A. I could not remember that either; I could not exactly tell you.

Q. At any rate, when you worked a day in the shop, you worked on different jobs, did you not?

A. From one thing to another.

Q. From one thing to another? A. Yes, sir.

Q. Would the occasion ever arise when you worked all day long on one job?

A. Oh, yes. My attention has been particularly on one job all day long.

Q. What became of the other jobs while you were attending to that? They had no supervision?

A. There was nothing much to look about, and I had nothing to do. Adamson was helping me out once in awhile, and he would take a look around the shop the same as I would, and help me out.

Q. You do not mean to say there have been times when there was only one job in the shop on any particular occasion? A. Oh, yes.

Q. There have been times when there was only one job in the shop?

A. Yes, sir, only one job in the shop.

Q. You think, perhaps, in August and September

(Testimony of David Doig.)

there were such times?

A. I don't remember at that time, but I have seen only one job in the shop; that is one particular job, that I would have my whole attention paid to. [879—791]

Q. That is, because there would be one particular job?

A. There would be small things that would not amount to anything.

Q. How many men did you have under you at that time, in August and September, 1909?

A. Well, sir, I could not remember.

Q. Can you give me some idea? Twenty or thirty?

A. There were all of that I am sure, but I don't remember. I never kept track of the number of men under me.

Q. When you had but one job in the shop on any one day, would you still keep all your men at work?

A. No, sir.

Q. Lay them off, would you? A. Sure.

Redirect Examination.

Mr. FRANK.—Q. When the shop was running on holidays, Mr. Doig, would that be for the purpose of a single job?

Mr. McCLANAHAN.—I object to the question as not being proper redirect examination, suggestive and leading.

A. In some cases it was; in some cases it was not. There might be two jobs; I don't know; not especially on one job alone.

[Testimony of L. Wilhelmson, for Libelant.]

L. WILHELMSON, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Wilhelmson, you were in the employ of the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. In what capacity? A. General foreman.

Q. General foreman? A. Yes, sir.

Q. In the capacity of general foreman did you have occasion to make out any stock order cards?

A. Yes, sir, I did when the occasion would call for it. **[880—792]**

Q. What would be the occasion?

A. In the momentary absence of the regular foreman, to facilitate the working and to save time.

Q. That is, would you go around the yard to the different departments?

A. My duty was to go all over as much as I possibly could, from one job to another.

Q. What would be the occasion of your making the order on a particular job?

A. I had to make myself acquainted beyond the question of a doubt at the time and know exactly what it was wanted for.

Q. How would you do that?

A. By the drawings, specifications, and actual seeing of the work.

Q. And actual seeing of the job? A. Yes, sir.

Q. And when you made the order state whether or not you would know that the particular thing ordered was necessary for the particular job.

A. When I made the order do you say?

(Testimony of L. Wilhelmson.)

Q. Yes.

A. You had better repeat that question over again.

Q. Read the question, Mr. Reporter.

(The Reporter reads the question.)

A. Yes, sir.

Q. Now, I show you a series of stock order cards, being numbered A78, A79, C5941, C5943, C5944, C5947, C5948, C5968, C5970, C5971 and C5972, and ask you to examine them and state whether or not those were orders for material made out by yourself.

A. (After examination.) This signature is mine.

Q. Go through them all and make one answer for them all.

A. They are all mine; that is all my signature.

Q. By "all your signature," what do you mean? They were all [881—793] orders issued by you?

A. They were signed by me after they were found correct.

Q. Where would you get the job numbers from?

A. The job numbers could be gotten from specifications as printed on drawings, as printed on sketches, and as marked on work.

Q. How did you verify the job number on these orders as being correct?

A. By the specifications, and knowing exactly where the work was being placed, that being the correct number, and knowing that said material was to be used on the job I affixed my signature.

Q. How did you keep track of the numbers for the different jobs? A. I had a printed list.

(Testimony of L. Wilhelmson.)

Q. From a printed list? A. I had a printed list.

Q. In case you were, say, on board of the “Hilonian” at the time some work was wanted there, how would you be able to consult your printed list?

A. I would have it in my pocket, or a copy thereof, either the regular printed list or a copy thereof. We had several around the shop.

Q. What, if any, examination would you make of the work itself?

A. What examination would I make?

Q. Of the work itself that required the material for which you gave the orders?

A. I would from time to time appear on the ship, of the different jobs, and see said work being done, and know by experience what constitutes the job, and actually see it there at that time.

Q. After you had given these orders what would be done with them?

A. They were taken to the storeroom, and the storekeeper would issue the material on the signature. [882—794]

Q. That is Mr. Roberts?

A. Mr. Roberts or his assistant.

Q. He would take up the order?

A. Yes, sir, he would take up the order.

Mr. FRANK.—Now, we offer these stock order cards in evidence and ask that they be marked collectively Wilhelmson Stock Card No. 1.

Mr. McCLANAHAN.—I object to the offer, and to each and every one of the cards, on the ground

(Testimony of L. Wilhelmson.)

that they are incompetent, irrelevant, immaterial, hearsay, self-serving and not binding upon the respondent.

(The stock cards are marked "Wilhelmson Stock Cards No. 1.")

Cross-examination.

Mr. McCLANAHAN.—Q. How many men were under you at the time that these cards were issued?

A. It would be very hard to tell.

Q. Several hundred?

A. I should judge it would be something like that.

Q. It would be your business to go about from place to place to see that these men were doing their work?

A. Yes, sir, and principally dealing with these different foremen.

Q. You were a pretty busy man, were you not?

A. Yes, sir; very busy.

Q. I understand the cards have your signature on them? A. Yes, sir.

Q. Were the cards written by you in the body?

A. Sometimes they would be and sometimes not.

Q. That is, when a man that you would be passing wanted something, he would present you with a card sometimes and you would look at it and sign it?

[883—795]

A. He would if he could not reach his own foreman. There were two foremen on the job.

Q. And you would sign the card?

A. I would sign the card to save delay. There were two foremen on the job, and if at any time one

(Testimony of L. Wilhelmson.)

could not be reached, I would look into the matter and affix my signature, otherwise it was entirely up to them.

Q. You are speaking now of what job when you say there were two foremen on it?

A. These particular job numbers.

Q. What job numbers do you refer to?

A. On the cards.

Q. Don't you refer to the "Hilonian" job?

A. Yes, sir.

Q. I see that there are but three job numbers on these several cards, 5325, 5295 and 5398. Did the "Hilonian" have more than three job numbers?

A. I could not tell the number or numbers, but it occurs to me it is all of that, a good many numbers.

Q. You don't remember, now, the job number of the "Hilonian"? A. No, sir, I could not possibly.

Q. I call your attention to your slip "C5941." How can you tell now, Mr. Wilhelmson, that that was "Hilonian" work shown on that card?

A. I knew at the time the job number.

Q. And you think that the right job number has now been presented to you at this hearing?

A. Yes, sir.

Q. You believe that? A. I believe so.

Q. And it is on your belief that the right job number was presented to you, that you can say that that was "Hilonian" work? A. Yes, sir.

Q. Of course these several items shown by this card was not followed up by you. You did not see the men use them?

(Testimony of L. Wilhelmson.)

A. Probably I did, yes. [884—796]

Q. Probably you did. Are you willing to swear, now, that you saw the men use the material shown on those cards?

A. I could not say which of them, but very often I did.

Q. Very often you did? A. Yes, sir.

Q. But you would not want to swear, now, that you saw them use all of the material on those cars?

A. I could not say that.

Q. How long have you been with the United Engineering Works?

A. To the best of my knowledge, over four years.

Q. Are you with them still?

A. I am with them still.

Q. Still a general foreman? A. Yes, sir.

Q. Did you, Mr. Wilhelmson, know how these job numbers were apportioned, what particular part of the ship, or the work on what particular part of the ship was given a number.

A. The number was given through an office order.

Q. You did not know anything more about it than that?

A. Specifications would follow along with it.

Q. They would pass into your hands, the specifications would? A. Yes, sir, always.

Q. Do you remember these specifications for the "Hilonian" job?

A. That would be very hard to remember.

Q. Would you recognize them if I should show them to you now? A. I guess I would.

(Testimony of L. Wilhelmson.)

Q. I show you a piece of paper and ask you if you can identify that as the original specifications of the "Hilonian" work.

Mr. FRANK.—I object to that as not being cross-examination and not affecting any matter at all that was referred to on the direct examination, and on the further ground that it is immaterial.

A. Is that all right? [885—797]

Mr. FRANK.—Q. You can go on and give such answer as you see fit. I do not mean to direct you one way or another.

A. I don't know if it is proper for me—

Mr. McCLANAHAN.—Q. You have not looked at them yet? A. I am looking at them now.

Q. Look at them before answering. (Addressing the Reporter.) Let it appear, Mr. Reporter, that the witness is looking at the exhibit attached to a copy of respondent's answer furnished by the libelant.

Mr. FRANK.—It is not a question of being furnished by the libelant. I object to it.

Mr. McCLANAHAN.—Produced by the libelant.

Mr. FRANK.—I object to that. Show him your own copy. I object to being bound by anything that is in that specification. Show him your own. That part of the record I think you may as well strike out, Mr. Bennett.

Mr. McCLANAHAN.—I beg your pardon. Let it stay there.

Q. I hand you now a piece of paper headed "Exhibit 1," which is a part of the copy of our answer filed in this case, and ask you to examine it, Mr. Wil-

(Testimony of L. Wilhelmson.)

helmson, and see if you can recognize in the paper the original specifications for the "Hilonian" work.

Mr. FRANK.—The same objection as to the former question.

A. That is all, those two pages.

Mr. McCLANAHAN.—Q. Yes, those two pages.

A. It is very much alike.

Q. Very much alike? A. Yes, sir.

Q. That is, it is very much like the specifications that you saw originally?

A. Yes, sir, which I had.

Q. That work when it first came into your hands had a job number on it, did it?

A. Yes, sir, always. [886—798]

Q. The original specifications of the "Hilonian" work when it came into your hands, had a job number on it?

A. Yes, sir, apportioned in the office. The order clerk gives the number, and it must be followed."

Q. What do you mean by "apportioned"?

A. The specifications are entered in the office and given a number, and we get the number; that is all.

Q. That is what you mean by "apportioned"?

A. Yes, sir.

Q. And that is called the job number?

A. The job number.

Q. That job number follows the work all through the process? A. All through.

Q. Until the job is completed? A. Yes, sir.

Q. And where there are changes in the original specifications the changed work is given a new job

(Testimony of L. Wilhelmson.)

number, is it not?

A. If the representative states any changes, and gives an order, a new number will be given.

Q. By "representative" you mean representative of the ship? A. Or anybody that has authority.

Q. I am speaking of a change in the original specifications for work? A. Yes, sir.

Q. I will say, "here is a certain item of specification which by consent of the parties is changed, and other work is substituted for it." That substituted work is given a new number, is it not?

A. Yes, sir. I had no authority to change.

Q. And in that way you keep track of this changed work by the new number?

A. I must keep track of the different numbers; yes. [887—799]

Q. And the work under it? A. Yes, sir.

Q. In other words, all the work done in your shop is given a number that remains with it until the work is completed? A. Yes, sir.

Redirect Examination.

Mr. FRANK.—Q. Mr. Wilhelmson, you do not undertake to say that what is shown you here as being appended to the pleadings of this gentleman, was the copy of any specifications that were handed to you in 1909 with reference to the "Hilonian," do you?

A. I merely said that the specifications I just saw there was very much similar, or almost identical, with what we had at the time.

Q. Do you remember that?

(Testimony of L. Wilhelmson.)

A. Remember the specifications?

Q. Yes. A. Yes, sir, very much so.

Q. But you do not know now what changes were made in those specifications?

Mr. McCLANAHAN.—I object to the question upon the ground that the witness has not stated there were any changes made.

Mr. FRANK.—Yes, he has.

Q. Just answer yes or no.

A. To the best of my ability and memory there were changes, but it is utterly impossible for me to remember all the changes. You ought to know that. You will allow that, and any such change had to be passed by an authority and given a job number before I could ever act on it.

Q. In other words, you had nothing to do with making job numbers or turning out specifications?

A. I have not.

Q. All you do is, you receive the job numbers and such specifications [888—800] that come from the office and see that they are carried out in the work?

A. See that they are carried out.

Q. What the cause or reason or nature of the changes are, you have no knowledge of?

A. No, sir, and I must always see that the proper man in authority makes the changes, sometimes to avoid mistakes and things like that, and see that the numbers are right.

Recross-examination.

Mr. McCLANAHAN.—Q. So that though you have not any remembrance now of the changes them-

(Testimony of L. Wilhelmson.)

selves made in the original specifications for the “Hilonian” work, you know that when they were made they were made with authority, and you passed on them?

A. Yes, sir. [889—801]

[Testimony of Henry Speed, for Libelant.]

HENRY SPEED, called for the libelant, sworn.

Mr. FRANK.—Q. You were the storekeeper on this side, were you, Mr. Speed? A. Yes, sir.

Q. And as such storekeeper you issued stores, did you not? A. Yes, sir.

Q. What track did you keep of the stores that you issued?

A. They were given to the people who gave orders to me for them or requested stores for the job.

Q. I show you a series of stock order cards which, for convenience of reference, I will fasten together, so that they may constitute a single exhibit in this case, and ask you to examine and tell us what they are.

A. This is the material given out on these different numbers, Mr. Frank.

Q. By whom?

A. By myself or some of my assistants.

Q. Well, in whose handwriting are they?

A. My own.

Q. They are all your own handwriting?

A. All my own handwriting.

Q. So that if it was given out by your assistants—

A. (Intg.) I should write the tag out.

Q. It would be done under your supervision?

(Testimony of Henry Speed.)

A. Yes, under my supervision.

Q. How would you secure the job numbers by which they were to be given out?

A. Well, knowing them from the frequency that I should run into them, and the men who would come to me for those articles would have the number and tell me what it was for.

Q. Did you have any means of verifying what the man said with respect to it?

A. In a great many cases the man would come to me with a paper, or some of the charges might be verbal, and were verbal from the machinist, or the man in charge came to the [890—802] shop—that is for the goods had in the city shop.

Q. I am asking you about the job number; did you have any means of verifying the correctness of the job number?

A. Only knowing that the number applied to the job they were working on.

Q. How would you know that the job number belonged to the job they were working on?

A. Because I had the numbers from the office.

Q. That is what I am getting at.

A. If a man gave me the wrong number, I should hold it up. I should find out where he got it, how it was wrong.

Q. Now, I notice on some of these cards a name like John—"Fenton," is it?

A. John Finn. This is a part that I put on that order so that the bookkeeper would not have any trouble in picking up the bill. You see, that is the

(Testimony of Henry Speed.)

galvanized iron that was sent to be galvanized.

Q. Delano.

A. That is another man we sent the work to, and it was put in this so that our bookkeeper would have no trouble in picking up the figures.

Q. I want to know what that name means.

A. That is the name of the man who performed some of that work.

Q. And who billed it to you?

A. The bill would come from these people; just simply the name of a firm that was doing some of the work for us.

Q. Now, this is a case of material issued—did you issue the material to that man on the work?

A. That gasket was got from Delano Brothers, bought from Delano Brothers by us.

Q. Did you buy it? A. We bought it.

Q. I do not mean “we.” I mean you, personally.

[891—803]

A. Well, for the shop, I wrote the order out for it.

Q. Crane Company; is that the same?

A. That is the same.

Q. P. H. & S.

A. Pacific Hardware & Steel, that means.

Q. Pacific Hardware & Steel Company?

A. Yes.

Q. Payne.

A. Payne. That is just a thing I add, so that the bookkeeper would be helped in picking up these bills.

Q. That is Delano Brothers. A. Yes.

Mr. FRANK.—We offer these in evidence and ask

(Testimony of Henry Speed.)

that they be marked Speed Stock Order Card No. 1.

Mr. McCLANAHAN.—We object to the cards, and to each of them, on the ground they are incompetent, irrelevant, immaterial, hearsay, self-serving, and not binding on the respondent.

(The cards are marked “Speed Stock Order Card No. 1.”)

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Speed, what would you do with these after they were honored?

A. Send them to the office.

Q. And what would they be used for there?

A. The material would be taken from those tags by the bookkeeper and put on the construction sheets; that is the construction sheets that are kept for the purpose afterwards of making up the bills, and keeping a check on the material.

Q. In other words, the bookkeeper would take these and charge to each particular job number the work found on the tag; that is it, is it?

A. Yes, sir.

Q. You do not know that these numbers appearing on here are “Hilonian” job numbers, do you?

A. Well, I must have known because all these numbers were issued to us people at the time we got the job; there is a card given to us with the numbers of the different jobs. [892—804]

Q. I mean, you do not know them to be “Hilonian” job numbers now?

A. Some of them I do, some of them I cannot.

Q. What numbers do you know to be the “Hilo-

(Testimony of Henry Speed.)

nian" job numbers? A. 5925.

Q. 5925? A. Yes.

Q. 5295, you mean?

A. 5295; 5325; 5398. That one I am not so dead sure of, I don't remember.

Q. You are pointing to 5360 when you say you are not so dead sure of it?

A. Yes, sir. There is so many of those numbers, you cannot keep them in your mind, all of them.

Q. When a man would come to you wanting material you would sometimes ask him what the job number was, would you not? A. Yes.

Q. And you would put it down on here?

A. Yes; if he gave me a number that did not belong to that, I should find out where he got it.

Q. If it did not belong to what?

A. If he gave me another number.

Q. Another number than what?

A. Than that belonging to the job that he was working on.

Q. How would you know he was working on any particular job?

A. I should know by the number he gave me.

Q. Suppose you did not know the number.

A. I should know where he was working.

Q. If he was working on the other side of the bay—

A. No, not on the other side of the bay. That is on this side.

Mr. FRANK.—All that is on this side.

Mr. McCLANAHAN.—All is on this side.

(Testimony of Henry Speed.)

The WITNESS.—We get to know the men that are on jobs. When [893—805] a man comes, we know a man is working on a certain job; he is not taken off unless the job is through or he gets discharged, or something of that kind.

Q. You don't know that any of these went into the "Hilonian," do you?

A. Well, it was all intended to go there. I did not put it there or anything of that kind, but it was given to him for that purpose; whether it landed there or not, my impression is it did so or the job would never have been finished.

Mr. FRANK.—Q. The job would never have been finished?

A. It never would have been finished; the ship could not have gone to sea; the very fact of her having done so shows the material went somewhere.

[Testimony of Manuel Mange, for Libelant.]

MANUEL MANGE, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Mange, you were working for the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. In what capacity? A. Driving a team.

Q. As driver of the team what, if anything, did you have to do with the weighing of the castings?

A. Well, I had to get my castings and weigh them out.

Q. Weigh them out? A. Yes, sir.

Q. When the weights of the castings were taken what did you do with respect to weighing them out?

A. Well, I generally took my patterns one day or

(Testimony of Manuel Mange.)

two days before, and then when I am supposed to get the castings I go over and pick up my own castings, the patterns I had taken before.

Q. I am asking you about weighing them, about the weight of the castings. Who would weigh the castings? [894—806]

A. I always weighed them up or the foundryman. I picked up my own castings and put them on the scales and weighed them up.

Q. Weighed them up? A. Yes.

Q. And took the weights?

A. Yes, and put them down on this.

Q. I show you Libelant's Exhibit No. 2 and ask you to go through them, looking at the column "Weights in Pounds," and tell me in whose hand the figures, those weights, are in each case.

A. Well, that is my figure right there.

Q. Go through them all and make one answer for all, if you can, and if there are any that are not in your handwriting pick them out. A. Yes.

Q. Have you looked over them?

A. Yes, they are all my figures except the totals.

Q. What do you mean by the totals?

A. Well, they are all my weights except these figures—the weights of the castings are all mine, but not those totals.

Q. The weights in pounds, in that column, are all yours? A. Yes, they are all mine.

Q. When did you put them in there?

A. As soon as I got my castings, as soon as I weighed them up.

(Testimony of Manuel Mange.)

Q. As soon as you weighed them?

A. Not on these, on the other tags; ones like this.

Q. On the yellow tags?

A. That is the ones I generally kept on my files; as soon as I weighed up my castings I put it down on that.

Q. On the yellow tag?

A. Yes. And then a day or two after I copied them from here to the white tags; those are the ones that go to the office.

Q. Then, as I understand you, you originally put them on the [895—807] yellow slips like the one that is in this file (pointing)? A. Yes, sir.

Q. And then copy them from the yellow slips on to the white slips afterward? A. Yes, I do.

Cross-examination.

Mr. McCLANAHAN.—Q. The foundryman sometimes weighs castings, don't he, Mr. Mange?

A. When he weighs up his castings I am always by the scales; he may walk up while I am weighing them there because every time he picks up the castings I pick up the castings myself, and I put it on the scales; he generally looks at the scales and I do at the same time, but I am the one that weighs up the castings; yes.

Q. What do you do with the yellow slips when you make them?

A. Put them away in the pattern-shop; we always keep them in the pattern-shop.

(An adjournment is here taken until to-morrow, Tuesday, September 11th, 1911, at 9:30 A. M.)
[896—808]

Tuesday, September 12th, 1911.

[**Testimony of L. K. Siversen, for Libelant.**]

L. K. SIVERSEN, called for the libelant, sworn.

Mr. FRANK.—I will state that this man has been working overnight, and we will only be able to hold him until about noontime, and he will have to come to-morrow. He wishes to leave at noontime so that he can get a little sleep. He is on a night shift and is not working for us.

Mr. McCLANAHAN.—He will be a long witness?

Mr. FRANK.—I do not know. We will see. I just wanted to make that provision so that he can get off and get a little rest this afternoon.

Q. Mr. Siversen, were you in the employ of the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. You were working on the "Hilonian" were you? A. Yes, sir.

Q. In whose employ are you now?

A. The Southern Pacific Company.

Q. In what capacity were you working on the "Hilonian"? A. As foreman machinist.

Q. Foreman machinist? A. Yes, sir.

Q. You were foreman of the work of the men who were working on board of the ship? A. Yes, sir.

Q. What were your duties in that connection?

A. I was assigned a certain number of men to work for me, machinists and helpers, and it was my

(Testimony of L. K. Siversen.)

duty to place these men at work. I was given a set of specifications and was given orders about the work to go on with, the work to be done, and I placed the men accordingly to the best and most economic progress [897—809] of the work.

Q. That is, you got orders from the office?

A. Yes, sir.

Q. For what work was to be done on board of the ship? A. Yes, sir.

Q. And you attended to the details on board of the ship; is that it? A. Yes, sir.

Q. With respect to keeping track of your men, what did you do?

A. As far as the work was concerned?

Q. Yes.

A. If I had a certain number of men I would place each man at a certain job, and I would go around from time to time, from one man to another, and see that the man was doing the work right, and that the work was progressing as rapidly as reasonable. If the man needed any piece of material for his work, if I was not there just at the time when he needed it, he would come and look for me and tell me. Then I would go over to the job with him and I would see that he needed it, and I would measure it up and write out an order for it, and he would get it. I would come back again and see that he was doing the job right, and that the work was progressing all right.

Q. When you set your men to any particular job,

(Testimony of L. K. Siversen.)

did you keep any note of the time that they worked on each job?

A. Why no. I did not write it down. I knew it mentally. I did not have more men than I could keep in my head, and I knew mentally that that man finished a certain job at such and such a time. When he was finished with that job I took him and placed him at some other job.

Q. Where was this work performed? In what part of the ship?

A. In the engine-room and in the shaft-alley; part of the work was also done in the after hold; outside of the ship as [898—810] well, on the propeller and rudder.

Q. That was after the vessel was docked?

A. Yes, certainly.

Q. Before the vessel was docked all the work was inside, was it not? A. Yes, sir.

Q. That was in the engine-room and shaft-alley?

A. Yes, sir.

Q. When you say the hold, was that in connection with the engine-room?

A. That was parts of machinery that was moved into the hold in order to facilitate the work so that the men would have more room to work.

Q. With respect to whether that was a comparatively small space, by that I mean whether the men were where you could keep track of them without travelling all over the ship?

A. Yes, sir. If I had men down in the shaft-alley and some men in the engine-room, I would go from

(Testimony of L. K. Siversen.)

the engine-room when I had seen to those men. I would go down to the shaft-alley and see to those men. I would go back to the engine-room again and see to those men. Then I would perhaps have to go up to the shop for something, or up to the storeroom. I would come back and I would go and look at the men again, what they were doing.

Q. State whether or not you checked up the time-cards of the men upon this job, the men that were working under you.

A. No, sir, I did not check up the time-cards with the men.

Q. I did not ask you "with the men." I said "of the men."

A. I thought you said "with the men"; excuse me. I checked up the time-cards of the men.

Q. When?

A. The next morning, the following morning, with the timekeeper. [899—811]

Q. With the timekeeper? A. Yes, sir.

Q. That is, you would go up to the office and check up the time-cards of each man with the timekeeper?

A. Yes, sir.

Q. In case there were any corrections to be made, how would they be made?

A. The timekeeper would pick up the time-card and read the name of the man and then he would say, "He worked so many hours on such and such a number, and so many hours on another number." I looked that over, and if those statements on the cards, the name and numbers are correct, there are no cor-

(Testimony of L. K. Siversen.)

rections made. If they are not correct I tell the timekeeper that that man has got that name wrong, or otherwise, he has got that number wrong, or the number of hours he has got wrong; he has got that mixed up. Then I tell the timekeeper that he worked so long on that piece, and so long on another piece. Then he makes the correction.

Q. Right there before you?

A. Right there before me.

Q. By the way, what was the condition of the "Hilonian," Mr. Siversen, with respect to being in good or bad repair, or a new or old vessel?

Mr. McCLANAHAN.—I object to that as immaterial.

Mr. FRANK.—Q. Go on, Mr. Siversen.

A. The vessel was an old vessel, and the condition of her engine was very bad.

Q. As you opened her up from one place to another, what did you find with respect to matters that were uncovered by opening her up?

Mr. McCLANAHAN.—I object to that as immaterial.

A. I found that there were things in very bad condition, that we did not anticipate, or that did not appear before they were uncovered. [900—812]

Mr. FRANK.—Q. Who else was on the ship at this time, Mr. Siversen, representing the owner of the vessel?

A. The representatives of the vessel's owners were Mr. Klitgard, and Mr. Putzar.

Q. What profession were these two men?

(Testimony of L. K. Siversen.)

Mr. McCLANAHAN.—That is, if you know.

A. Mr. Klitgard was introduced to me as the Chief Engineer of the steamer “Hilonian,” and Mr. Putzar was introduced to me as the company’s representative, or rather as a timekeeper.

Mr. FRANK.—Q. During the time that you were on board did these two gentlemen exercise any authority in those respects? A. I beg pardon?

Q. Did those two gentlemen exercise any authority showing their capacity in which they were on board?

A. Why, yes, in stating certain particulars about work they wanted done, or a certain way that they wanted the work done.

Q. Was either of them supervising your work to see whether or not it was satisfactory to the owner?

A. Yes, sir; Mr. Klitgard.

Q. Did Mr. Putzar do that at any time?

A. Mr. Putzar appeared to be working in conjunction with Mr. Klitgard on that subject. At the latter part of the work it appeared as though Mr. Klitgard rather relinquished, and Mr. Putzar took more charge. [901—813]

Q. I now show you, Mr. Siversen, a series of stock order cards, and bearing the following numbers: H5802, H5803, H5804, H5806, H5807, H5808, H5810, H5814, H5815, H5816, H5817, H5818, H5819, H5820, H5823, H5825, H5826, H5827, H5828, H5829, H5830, H5831, H5832, H5835, H5836, H5837, H5838, H5839, H5840, H5842, H5843, H5845, H5846, H5847, H5848, H5849, H5851, H5852, H5853, H5854, H5856, H5857,

(Testimony of L. K. Siversen.)

H5859, H5860, H5862, H5863, H5865, H5866, H5867, H5868, H5869, H5871, H5873, H5874, H5878, H5879, H5880, and H5881, and ask you to look at those cards and state whether or not the matter contained on those order cards went into that work on the ship.

Mr. McCLANAHAN.—I object to the question on the ground that it is incompetent, irrelevant and immaterial, self-serving, and not binding on the respondent.

A. I identify all these cards as being written and signed by me, but I don't pretend to know, or remember now what I used this material for, but I do know that before this material was ordered I would go to the job where the material was needed, and I would measure up and look at the material that was requested and see if it was needed, and if it was needed I would issue a card, stock order, for it, and I would see that it came back again and was used.

Q. And all of these cards were made in that way?

A. All of those cards were made in that way, and there were no cards issued at the instance of the men, but I would go around with the men and see that the material was needed.

Q. And with respect to the job numbers would you put the order under the respective job numbers?
[902—814]

A. Yes, sir; I knew what numbers the certain jobs were under and I would put the numbers on the order accordingly.

Mr. FRANK.—I offer this in evidence and ask that it be marked L. K. Siversen Stock Card No. 1.

(Testimony of L. K. Siverson.)

Mr. McCLANAHAN.—I object to the offer on the ground that it is incompetent, irrelevant and immaterial, hearsay, self-serving and not binding on the respondent, and ask that the objection apply to each card.

(The stock cards are marked “L. K. Siverson No. 1.”)

Mr. FRANK.—Q. I now show you stock order cards numbered respectively, A2501, A2502, A2503, A2504, A2505, A2506, A2507, A2508, A2509, A2511, A2512, A2514, A2515, A2516, A2519, A2526, A2527, A2529, A2528, A2531, A2532, A2533, A2534, A2536, A2537, A2538, A2539, A2541, A2542, A2543, A2544, A2545, A2546, A2547, A2548, A2549, A2550, A2552, A2555, A2556, A2557, A2558, A2559, A2560, A2561, A2562, A2563, A2564, A2565, A2566, A2567, A2568, A2569, A2570, A2571, A2572, A2573, A2575, A2577, A2578, A2579, A2580, A2582, A2584, A2585, A2586, A2587, A2588, A2589, A2591, A2592, A2593, A2597, and A2598, and ask you whether or not the material indicated on these cards went into the respective jobs indicated by the job numbers thereon on board the steamer “Hilonian.”

Mr. McCLANAHAN.—I object to the question on the ground that it is immaterial.

A. Here is something on this card that has been filled in.

Mr. FRANK.—Q. Give us the number of the card and we will see what it is about? A. 2580.

[903—815]

Q. What is it? Let me see.

(Testimony of L. K. Siverson.)

A. No. 30 "Adam's Superior stucco wall-brush." I also identify these cards as being written by me. I also state that I know that the stock and material was used in the same manner.

Q. That you testified to concerning the other cards? A. Yes, sir, No. 1.

Mr. FRANK.—I offer this in evidence and ask that it be marked "L. K. Siverson stock cards No. 2."

Mr. McCLANAHAN.—I object to it on the ground that it is incompetent, irrelevant, immaterial, hearsay, self-serving and not binding on the respondent and ask that the objection apply to each card.

(The cards are marked "L. K. Siverson Stock Cards No. 2.")

Mr. FRANK.—Q. I now show you a series of stock order cards numbered and lettered as follows: A6301, A6302, A6303, A6304, A6305, A6307, A6308, A6311, A6313, A6314, A6315, A6316, A6317, A6319, A6320, A6321, A6322, A6323, A6324, A6325, A6326, A6327, A6329, A6330, A6331, A6332, A6333, A6334, A6335, A6337, A6338, A6339, A6340, A6342, A6344, A6345, A6346, A6347, A6349, A6350, A6351, A6352, A6353, A6354, A6356, A6357, A6358, A6360, A6361, A6362, A6379, A6380, A6381, A6383, A6384, A6385, A6386, A6387 and A6388, and ask you whether or not the material indicated on these cards went into the respective jobs indicated by the job numbers thereon on board the steamer "Hilonian."

Mr. McCLANAHAN.—I object to the question as immaterial.

(Testimony of L. K. Siverson.)

A. There is something that I don't recognize here.

Q. What is the number of the card?

Mr. FRANK.—A6379. "M. F. W.," on one side of the card, and "E7598" on the other. (Addressing the witness.) Is that [904—816] something that you do not recognize?

A. I have not written that, whatever it means.

Q. All right. The rest of the card, you have written?

A. Yes, sir. Here is something else, "A6384."

Q. On what card?

A. "Crane Co." Here is something else, "7603." Here is another one.

Mr. McCLANAHAN.—Q. What is the number?

A. "A6387," the word "Payne's." That is the bolt factory, "E7604." Here is another card.

Q. What is the number?

A. "A6388." It also says "Payne," "E7607." Otherwise I testify to having written these cards, everything that is on them, and know that the material went into the job.

Mr. FRANK.—I offer this in evidence as L. K. Siverson Stock Cards No. 3.

Mr. McCLANAHAN.—I object to it as incompetent, irrelevant, immaterial, hearsay, not binding on the respondent, and ask that the objection apply to each of the cards.

(The cards are marked "L. K. Siverson Stock Cards No. 3.")

Mr. FRANK.—Q. Do you know whether a gear case was put on board of the ship?

(Testimony of L. K. Siversen.)

A. Yes, sir.

Q. How would they lay off the gear case? By what means?

A. What I understand by this gear case is, it is a casing that goes around the jacking-wheel, a big worm-wheel that goes round the shaft, by which means the engine is being turned when the ship is in port, and the gear case is a casing to go over this worm-wheel to prevent anybody from coming in contact with it when the engine is running.

Q. Do you know whether such a gear case was put in? A. Yes, sir, I do know. [905—817]

Q. And in reference to the laying it off, whether they do it by means of template wood.

A. Yes, sir.

Q. Now, I show you a card "C582" of A. Robinson's Stock Card No. 1, and ask you whether or not the amount of template wood indicated on that card is a reasonable amount to lay off that particular gear case.

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir. I should even think that they would need more than that.

Mr. FRANK.—Q. I show you "C592" of the same exhibit, Robinson No. 1, and ask you whether or not the plates of the shaft-alley were removed, and if the material on that card was necessary for that purpose.

Mr. McCLANAHAN.—I object to the question as being double and immaterial.

(Testimony of L. K. Siversen.)

Mr. FRANK.—Q. Answer both questions, Mr. Siversen. A. Yes, sir.

Q. By “yes, sir,” you mean what?

A. I mean yes, sir, to both questions.

Q. I now show you “Robinson No. A997” of the same exhibit and ask you whether the material there referred to would be used on the gear casing.

Mr. McCLANAHAN.—I object to that as immaterial.

A. That is supposed to be rivets, isn’t it, or is it bolts? (Hanging.)

Mr. FRANK.—Q. Cannot you read it?

A. It is bolts. Yes, that would be needed on the gear casing to be bolted together before it is riveted.

Q. You know what it was, then—not rivets but bolts? A. Yes, sir, bolts. [906—818]

Q. I now show you “Robinson Stock Cards, Exhibit No. 1,” and ask you to examine the following numbers, and after examining them, state whether or not the work there indicated was to your knowledge performed in the engine-room and shaft-alley, and whether the material indicated on each of those cards was necessary and proper for the said work. The numbers to which I ask you to look are as follows: A997, B1005, B1018, B1038, B1041, C1118, C1147, C1142, C1173, B1516, B1522, B1572, B1576, B1577, B1580, B1584, B1591, B1599, B7401, B7414, B7413, B9551, B9552, B3612, B3616, B3621, B3629, B3638, B3649, B3654, B3656, B3658, B3660, B3661, B3667, B5626, B5657, B5674, B5672, B5695, B1809, B3628, B3663 and B5660.

(Testimony of L. K. Siversen.)

Mr. McCLANAHAN.—I object to the question as immaterial.

A. I wish to say regarding some of these cards as to their being marked gear casing, where they call for rivets and bolts, 3/16 and 1/4 inch, I think that the gear casing and the eccentric pans have been mixed up. There were pans made for the eccentrics that look just exactly like the gear casing; in fact, they were so very much alike that the ship-fitter, I remember distinctly, fitted up one of the eccentric pans as being the gear case.

Q. Even so, the eccentric pans were necessary and put on board of the ship? A. Certainly.

Q. The material used there was either used on the eccentric pans or the gear casing.

A. Yes, sir; but it appears here, gear casing, and gear casing, and gear casing, and the question would arise how big is that gear casing.

Q. That is immaterial. What I want to get at is, both the [907—819] gear casing and eccentric pans went into the ship? A. Certainly.

Q. The material there was necessary for one or the other of them. A. Yes, sir.

Q. That is what I want.

A. They have been used for the eccentric pans and the gear casing.

Q. That is all right.

A. I answer yes to both of your questions. I know that the work was performed, and I know that that material was needed.

Q. That is, the work could not have been per-

[(Testimony of L. K. Siversen.)

formed without that material. A. No, sir.

(A recess was here taken until 2 P. M.) [908—
820]

AFTERNOON SESSION.

[Testimony of John T. Mitchell, for Libelant.]

JOHN T. MITCHELL, called for the libelant,
sworn.

Mr. FRANK.—Q. Mr. Mitchell, you were in the
employ of the United Engineering Works in August
and September, 1909? A. Yes, sir.

Q. In what capacity?

A. In the electrical department.

Q. Did you work on the steamer “Hilonian”?

A. Yes, sir.

Q. Who worked with you? A. William Ross.

Q. What was Ross? A. Electrician.

Q. And you? A. Helper.

Q. Ross’s helper? A. Yes, sir.

Q. Then all the work that was done there by you,
was done together. A. Yes, sir.

Q. With respect to the material used on that job,
who would get the material?

A. I would. By Mr. Ross’s order.

Q. By Mr. Ross’s order? A. Yes, sir.

Q. And how did he make out the orders?

A. We had a book, an order-book. He would
make out an order, give it to me, and I would go to
the storeroom and get the material, whatever it
may be.

Q. What did you do with the order?

A. Bring it back to the boat, to the “Hilonian.”

(Testimony of John T. Mitchell.)

Q. To the "Hilonian"? A. Yes, sir.

Q. And two of you used it on that job?

A. Yes, sir.

Q. I show you now a series of stock order cards numbered respectively A2288, A6521, A6519, A6518, A6515, A6512, A6510, A3230, A2272, A6506, A6501, A6336 and A6004, and ask you what those are?

[909—821] A. Order cards.

Q. Whose order cards and for what?

A. William Ross's order cards for the material that was used on the "Hilonian."

Q. Are these the cards you refer to as having taken up for the material, to get the material?

A. Yes, sir.

Q. You know Ross's handwriting?

A. Yes, sir.

Q. Do you recognize that? A. Yes, sir.

Q. There is one there signed "J. Mitchell"; in whose handwriting is that? A. That is mine.

Q. When you get the material what would you do with the cards?

A. Turn them in to the storeroom.

Q. Are you an employee of the company now?

A. No, sir.

Q. Do you know where Ross is? A. No, sir.

Q. Did you see Ross make out those cards?

A. Yes, sir.

Q. Were they made out in your presence?

A. Yes, sir.

Q. And then handed to you? A. Yes, sir.

Mr. FRANK.—I offer these in evidence and ask

(Testimony of John T. Mitchell.)

that they be marked "John T. Mitchell Stock Order Cards No. 1."

Mr. McCLANAHAN.—I object to it as incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent.

(The cards are marked "John T. Mitchell Stock Order Cards No. 1.")

Cross-examination.

Mr. McCLANAHAN.—Q. What did you say was done with this material?

A. It was brought to the "Hilonian."

Q. What done with it then?

A. It was put wherever it was supposed to go.

Q. When the work on the "Hilonian" was finished what did you do with this stuff?

A. We never had any stuff after the [910—822] "Hilonian."

Q. Did you work on the "Hilonian" at all?

A. Yes, sir.

Q. With Ross? A. Yes, sir.

Q. What other electrician worked with you?

A. That is all, only Mr. Ross and myself.

Q. You are not an electrician, you are only a helper. A. A helper.

Q. What electrical work did you do on the "Hilonian"? A. I helped Mr. Ross.

Q. What to do?

A. To get the material and pull the wires through the pipe; whatever he needed I went and got for him.

Q. I want to know what electrical work Mr. Ross

(Testimony of John T. Mitchell.)

did on the ship.

A. Put sockets in, run wires, worked in the engine-room, wired the engine-room, fire-room and galley.

Q. What for? What did he wire the engine-room for? A. Because it needed it.

Q. You mean to say that the electrical equipment which you and Ross worked on was an electrical equipment for the ship itself? A. Yes, sir.

Q. Belonging to the ship? A. Yes, sir.

Q. And that the ship took away with it?

A. Yes, sir.

Q. Under whose orders was this work done, do you know? Where did you get your orders for the work from? A. I got my orders from Mr. Ross.

Q. Do you know where he got them?

A. From the boss.

Q. What boss?

A. Mr. Christy, or whoever had charge of the yard.

Q. Do you know anything about these job numbers on these yellow slips?

A. No, sir. [911—823]

Q. You don't know anything about them?

A. No, sir.

Q. I call your attention to your card, or rather to Ross's card "A6004" where you find the notation at the bottom of the card "Used on portables for engine-room." A. Yes, sir.

Q. What portables are those? Does it not mean that the lights were portable and could be taken out

(Testimony of John T. Mitchell.)

again? A. Yes, sir.

Q. Then they were taken out?

A. I don't know.

Q. You do not? A. I never took them out.

Q. You don't know if they were taken out?

A. No, sir.

Q. Do you remember that work, "Portables for engine-room"? A. Yes, sir.

Q. What character of work was it? What did you do?

A. Run the portables down into the engine-room for the work that was going on in the engine-room.

Q. When the work was finished in the engine-room, what did you do with the portable?

A. I never touched the portables.

Q. They were not left on the ship, were they?

A. I don't know.

Q. That is one card that you don't know whether the material was left on the ship or not, do you?

A. No.

Q. I call your attention to your card "A6521." "Repairing tank-top aft." You did not leave any electrical work or apparatus down on the tank-top?

A. Yes, sir, we left it there, sure; we put in sockets there.

Q. Where did you leave it?

A. On top of the tank aft, that the pipe run along on the electrical work.

Q. What did they use the electrical lights down there for? A. For light, I guess. [912—824]

Q. In repairing the tanks?

(Testimony of John T. Mitchell.)

A. Under electrical work, putting the lights there.

Q. Why does this card say "Repairing tank-tops aft"? Was that not material used for the repair work down there? A. I don't know.

Q. You don't know?

A. No, sir. The work that was done on top of the tanks aft was the electrical work, running the wires.

Q. Then this word "Repairing tank-top aft" is not aptly used?

A. I don't know anything about repairing tank-tops.

Q. That is your card. You have identified it.

Mr. FRANK.—That speaks for itself.

Mr. McCLANAHAN.—I am perfectly aware it speaks for itself, and spoke for itself when you asked the man what the card was. I did not encumber the record by objecting to it. Please refrain from saying that the card speaks for itself.

Mr. FRANK.—I will not refrain from saying anything. I object to your manner of cross-examining the witness as improper.

Mr. McCLANAHAN.—Improper?

Mr. FRANK.—Yes.

Mr. McCLANAHAN.—For me to examine the witness on these cards?

Mr. FRANK.—I will not argue it with you. I am making my objection.

Mr. McCLANAHAN.—You can make your objection, but do not argue with me.

(Testimony of John T. Mitchell.)

Mr. FRANK.—I suppose you must have the last word.

Mr. McCLANAHAN.—Q. Where did this material go as shown by “A6519”?

A. To the “Hilonian.” [913—825]

Q. Whereabouts?

A. I could not tell you exactly where it went, but the material was all put on the “Hilonian.”

Q. Here is your card “A6518,” showing that some electric lamps were used on the wheel job. Were those left there? A. Yes, sir.

Q. Do you know what the wheel of a ship is?

A. Yes, sir.

Q. What is it? A. The propeller.

Q. What part of the propeller were those lamps used on? A. To work on them.

Q. But they were not left there, were they?

A. Yes, sir, they were left there—the lamps were left there.

Q. Is not the propeller under water usually?

A. Yes, sir.

Q. You think these lamps were under water when the ship went to sea?

A. The lamps were brought aboard the ship and left there.

Q. Left on the ship? A. On the ship.

Q. How do you know that—because you did not take them off? A. Because I did take them off.

Q. You did take them off? A. Yes, sir.

Q. They were not left then there?

A. They were left there.

(Testimony of John T. Mitchell.)

Q. How were they?

A. They were taken out of the cluster and put aboard of the ship.

Q. I want to know whether they were taken from the ship.

A. No, sir, they were not taken from the ship.

Q. I mean after they had been used, Mr. Mitchell, after the job was finished.

A. They were left aboard the ship.

Q. How do you know that?

A. I put them aboard the ship.

Q. You know they were left aboard the ship because you did not take them off?

A. I did not take them off. [914—826]

Q. And that is all you know about it.

A. That is all I know about it.

Q. Somebody else might have taken them off?

A. They might have taken them off.

Q. You don't know?

A. I don't know nothing about them.

Q. Is that your answer with reference to all this material: you did not take it off, but you don't know whether anybody else did or not? A. No, sir.

Q. What do you mean by "No, sir"?

A. I mean that everything that was aboard the ship was not taken off.

Q. Was not taken off by you? A. By me.

Q. You don't know whether somebody else took it off or not? A. No, sir.

Q. Do you know whether these job numbers are correct or not? A. No, sir.

(Testimony of John T. Mitchell.)

Redirect Examination.

Mr. FRANK.—Q. I understand, then, Mr. Mitchell, that you got this material and put it on board of the vessel and left it there.

Mr. McCLANAHAN.—I object to that as not proper redirect examination. A. Yes, sir.

Mr. FRANK.—Q. Mr. Mitchell, you were asked upon cross-examination if your answer with respect to the portables, that you had put them on board and never took them off, was your answer to all this material. Was there not permanent work done on that vessel, wiring?

Mr. McCLANAHAN.—I object to the question as leading.

A. Yes, sir.

Mr. FRANK.—Q. What was done?

A. The wiring of the galley, as I said before, and the engine-room, and between [915—827] decks, and over the tank is as far back as I can remember of the work.

Q. Permanent installation? A. Yes, sir.

Q. And the material referred to here is the material used on that permanent installation on those cards? A. Yes, sir.

Q. In speaking of the lamps used on the wheel job, you say you took them off of the wheel and put them on board of the ship?

Mr. McCLANAHAN.—I object to the question upon the ground that it is leading and suggestive and also a misstatement of what the witness has said.

Mr. FRANK.—In which we do not concur—that

(Testimony of John T. Mitchell.)

is, with reference to any misstatement.

A. The lamps were left aboard the ship. They hung over a cluster so as to see all the work.

Mr. FRANK.—In what respect is it a misstatement?

Mr. McCLANAHAN.—The witness has not stated that he took the lamps off the wheel and left them on the ship.

Mr. FRANK.—He did say so.

Mr. McCLANAHAN.—The record will show.

Mr. FRANK.—The record will show.

Q. What did you say, Mr. Mitchell, about the lamps that were on the wheel?

A. I took the lamps that we used for the work, took them out, and put them aboard of the ship when we took the cluster off of the work.

Q. When you speak of the work, do you mean the wheel? A. The work that was done on the wheel.

Q. I thought I understood you rightly. At whose orders did you put them aboard of the ship?

A. Mr. Ross' orders.

Q. How long did you stay with the ship? I mean with respect to the time she finished her work. Were you on the ship [916—828] after she was put in the water again from the dock? A. Yes, sir.

Q. Were you on her up to the time that she left the United Engineering Works over at Alameda Point? A. Yes, sir.

Q. Were the lamps taken off before she left there?

A. The clusters; that is all.

Q. What clusters?

(Testimony of John T. Mitchell.)

A. The clusters that were used to see the work.

Q. Clusters? A. The cluster lights.

Q. All the rest of the material was left aboard of her?

A. Everything was left aboard of her outside of the cluster lights.

Recross-examination.

Mr. McCLANAHAN.—Q. In connection with the electrical work, do you know what a conduit is?

A. A conduit? A pipe, yes.

Q. You know what that is? A. Yes, sir.

Q. Did you run these wires on the “Hilonian” in conduits? A. Yes, sir.

Q. Where did you get the conduits?

A. From the shop.

Q. You have not any card here for conduits, have you? A. I don't know about that.

Q. Have you not looked these cards over, to know?

A. Yes, sir, I have looked these cards over.

Q. Then you can answer my question?

A. Yes, sir.

Q. Are there any conduits there? A. Yes, sir.

Q. Show me a card that has conduits on.

A. The card might not be there, for all I know.

Q. I have asked you the question whether there are any conduits on those cards.

A. There were conduits on the boat; [917—829] I don't know about the cards; it might not be on the cards.

Q. If you got it from the storehouse, you got it under an order like that, didn't you? A. Yes, sir.

(Testimony of John T. Mitchell.)

Q. And you are sure you got conduits?

A. Yes, sir.

A. And put them on the ship and run conduits on them? A. Yes, sir.

Q. And if you got them you got them under those yellow slips, did you? A. Yes, sir.

Q. Did you not run wires there on the ship, for the benefit of the men doing work there at all?

A. No, sir.

Q. Not at all? A. No, sir.

Q. Where they needed light they used candles; is that it? A. No, sir, cluster lights.

Q. How did you get the clusters to them?

A. Attached to the dock.

Q. How did you get them on the ship?

A. Put them on board of the ship and run them down with the cable.

Q. They were in conduits? A. No, sir.

Q. The wires were? A. No, sir.

Q. How did you get the wires aboard of the ship?

A. The cluster was connected up with the dock down to the engine-room for the light of whoever was working there.

Q. What was the cluster attached to, wires?

Mr. FRANK.—He told you.

A. Yes, sir.

Mr. McCLANAHAN.—Q. Those wires were run from the dock on to the ship?

A. On to the ship.

Q. Exactly; and that was your principal work on board of the "Hilonian," furnishing light to the men

(Testimony of John T. Mitchell.)

working there? A. No, sir. [918—830]

Q. How many days did you and Ross work on the ship? A. I could not exactly tell you.

Q. A number of days? A. Yes, sir.

Q. What was your principal work?

A. Putting new sockets in, running new wires.

Q. You ran them in conduits?

A. Conduits, yes, sir.

Q. Do you remember what part of the ship you ran new wires on conduits?

A. We worked all over the ship; we worked in the fire-room and the engine-room.

Q. In the fire-room? A. Yes, sir.

Q. And in the engine-room? A. Yes, sir.

Q. Where else? You are talking about running new conduits. You ran conduits in the fire-room and engine-room; is that right? A. Yes, sir.

Q. Where else?

A. That is as far as I could say that I can remember.

Q. Did you run any conduits in the shaft-alley?

A. I could not say.

Q. Did you put any wires in the conduits?

A. There were some that the wire ran through; the wires were taken out, that is, some parts of the work. What I mean is, I believe the conduit was in there.

Q. If the conduit was in there what did you do?

A. We run new wires.

Q. You got new wires. Where did you get the new wires? From the storeroom? A. Yes, sir.

(Testimony of John T. Mitchell.)

Q. On orders such as these? A. Yes, sir.

Q. Where did you run new wires? What parts of the ship?

A. That is pretty hard for me to answer, all these questions, you know. I don't remember everything that has been done there. [919—831] It is quite a while ago. I cannot tell you everything.

Q. You had no difficulty in remembering these articles here that you testified to?

A. It is as much as I can remember.

Q. Cannot you remember where you furnished new conduits, whether you ran wires through those or not?

A. I remember running wires, but I cannot explain to you where they were, or how they were.

Q. You know where you got them, don't you?

A. Yes, sir.

Q. Where did you get them?

A. In the storeroom.

Q. On orders just like these? A. Yes, sir.

Q. Made out by Ross? A. Yes, sir.

Q. And taken by you to the storeroom?

A. Taken aboard of the ship.

Q. The orders you took to the storeroom, didn't you? A. Yes, sir.

Q. Got the material there, the wire?

A. Yes, sir.

Q. And brought that aboard of the ship?

A. Yes, sir.

Q. And the same with the conduits?

A. Yes, sir.

(An adjournment was here taken until to-morrow, Wednesday, September 13th, 1911, at 9:30 A. M.)
[920—832]

Wednesday, September 13th, 1911.

**[Testimony of L. K. Siversen, for Libelant
(Recalled).]**

L. K. SIVERSEN, recalled, direct examination resumed:

Mr. FRANK.—Mr. McClanahan, I am going to take the stock cards testified to by S. M. Robinson on page 729 of the record to page 748 of the record, fasten them together and mark them “S. M. Robinson Stock Cards No. 1,” for the purpose of convenience in further testimony regarding those cards.

Mr. McCLANAHAN.—I consent to that, provided my exceptions apply to the re-marking of the exhibit as they did to the original.

Mr. FRANK.—That is all right.

(The cards are marked “S. M. Robinson Stock Cards No. 1.”)

Q. Now, Mr. Siversen, have you gone over carefully the cards contained in “S. M. Robinson Stock Cards No. 1”?

A. Yes, sir.

Q. To ascertain what particular cards the contents of which you were familiar with?

A. Yes, sir, familiar to this extent that I know that the stuff, or material called for therein was necessary for the purpose to which it is designated in there, and that it was not more than was needed for the job.

Q. The job could not have been completed without

(Testimony of L. K. Siversen.)

them? A. No, sir.

Q. Now, the cards to which you refer are the ones that you have selected out during the time you have been sitting here and written the numbers on a sheet, is that right? A. Yes, sir.

Q. And these are the numbers? A. Yes, sir.

Q. C3994, C3991, C3953, C3997, C3916, C3915, C3908, [921—833] A1500, A1900, A1711, A1741, A1734, A1744, A1745, A1755, A1796, A1790, A1813, A1820, A1834, A1839, A1841, A1856, A1895, B2921, B2917, C2788, C2784, C2777, C2774, C2769, C2764, C2755, C2753, C2738, C2715, C2706, A1494, A1492, A1477? A. Yes, sir.

Mr. FRANK.—I now reoffer these in evidence.

Mr. McCLANAHAN.—I object to the offer as incompetent, irrelevant and immaterial, hearsay, self-serving and not binding on the respondent.

Mr. FRANK.—Q. Now, I hand you another bundle of cards which are cards testified to by Stephen Cronin on pages 664 to 674 of the record, which for the present purposes I ask to be marked “Stephen Cronin Stock Cards No. 1”—

Mr. McCLANAHAN.—Have they been offered before?

Mr. FRANK.—Yes, on the number business.

Mr. McCLANAHAN.—I consent to the reoffer under the new exhibit title on the understanding that my exceptions heretofore made to the several cards applies to the reoffer of the cards.

(The cards are marked “Stephen Cronin Stock Cards No. 1.”)

(Testimony of L. K. Siversen.)

Mr. FRANK.—Q. —and ask you to examine them in the same manner that you examined the other cards in order to ascertain which ones of them you can testify to as necessary for said work.

Mr. McCLANAHAN.—We object to the question on the ground it is immaterial.

A. I have done it.

Mr. FRANK.—Q. You have examined the cards, have you? A. Yes, sir.

Q. And the cards that you have selected out are a record of [922—834] material concerning which you testify the same as you did concerning “S. M. Robinson Stock Cards No. 1”? A. Yes, sir.

Mr. FRANK.—The list that you have furnished are the following numbers: A3287, A2494, A6494, A6439, and A6434. I reoffer these in evidence.

Mr. McCLANAHAN.—I make the same objection that they are incompetent, irrelevant and immaterial, hearsay, self-serving and not binding on the respondent.

Mr. FRANK.—Q. I show you another batch of “S. M. Robinson Stock Cards” which I overlooked in the other bundle, and I will ask to have them marked “S. M. Robinson Stock Cards No. 2” for the present purpose.

Mr. McCLANAHAN.—The re-marking of these further cards of S. M. Robinson, I consent to their being re-marked, as a whole, S. M. Robinson No. 2, provided it is understood that my former objection applies to the reoffer of the cards.

(Testimony of L. K. Siversen.)

(The cards are marked "Stephen Cronin Stock Cards No. 1.")

A. I have examined them.

Mr. FRANK.—Q. And the cards you have put down you testify to concerning the same as you did the other cards? A. Yes, sir.

Mr. FRANK.—A1897, A1772, A1731, B2908, B2912, B2922, and B2923. I also reoffer these cards in evidence.

Mr. McCLANAHAN.—I object to the offer on the ground that they are incompetent, irrelevant and immaterial, hearsay, self-serving, and binding on the respondent.

Mr. FRANK.—Q. I now show you a series of cards, Speed Stock Order Cards No. 1, and ask you to examine them in the same manner and for the same purpose. [923—835]

Mr. McCLANAHAN.—I object to it on the ground it is immaterial.

Mr. FRANK.—Q. Begin with the first one.

A. The first one I do not know. The second one is "1 corrugated copper gasket as per template, used on air pump." That gasket I know went in there. The third one I do not know. The fourth one I do know. "1—6 inch face compound ammonia gauge." The fifth one I do not recollect. The sixth one I do not know. The seventh one I do not know. The eighth one I do not know. The ninth one I do know. "6 pounds of red lead putty." It does not say here what this was used for, but this was used for the thrust. The tenth one I do not know. The eleventh

(Testimony of L. K. Siversen.)

one I do know. "2—1 inch black ells. 1—1 inch by 5 inches nipper, and one piece of one inch pipe, 4 foot long. Drains for thrust box." "Drains for thrust," it says. The twelfth one I know. "Knuckle joint for forging as per sketch." It was used on the main sea valve. The thirteenth I know. "4¾ by 1¼ cap screws used on knuckle joint on sea valve." That is all.

Mr. FRANK.—I also reoffer these in evidence.

Mr. McCLANAHAN.—I make the same objection that it is incompetent, irrelevant and immaterial, hearsay, self-serving, and not binding on the respondent. [924—836]

Q. Now, I will show you a series of cards testified to by Mr. Roberts on page —— of the record, which I will ask to be marked now Roberts' Exhibit, Stock Card No. 22.

Mr. McCLANAHAN.—We consent to the remarking of the Roberts' Stock Cards as Exhibit No. 22, with the understanding that our objection heretofore made to the cards severally apply to the reoffered cards.

(The cards are marked "Roberts' Stock Cards Exhibit No. 22.")

Mr. FRANK.—Q. I ask you to examine those and to identify them for the purpose of ascertaining whether they contain material which you actually know went on board or material which was absolutely necessary for the job that you were performing.

Mr. McCLANAHAN.—I object to the question on

(Testimony of L. K. Siversen.)

the ground it is a double question, and on the further ground that it is immaterial. I would like to have the answer of the witness segregate the question.

Mr. FRANK.—I will attend to that later.

Q. Just pick them out and put your numbers underneath here so that I can follow them. (After the witness has done so.) Now, Mr. Siversen, you have gone over these cards and the numbers that you have selected out I understand are in the same category as the numbers that you have selected out of these previous exhibits. A. Yes, sir.

Q. Those numbers are A6489, A6484, A6431, A6410, A6406, A6402, A3274, A3271, A3268, A3244, A3236, A3212, A3211, A3202, A2713, A2710, A2498, A2467, A2463, A2462, A2460, A2380, A2371, A2359, A2354, and A2343? A. Yes.

Mr. FRANK.—I now reoffer the cards in evidence.

Mr. McCLANAHAN.—We object to the reoffer on the ground that [925—837] it is incompetent, irrelevant, immaterial, hearsay, self-serving, and not binding on the respondent.

Mr. FRANK.—Q. I have another package which I will ask to be marked Roberts Stock Card Exhibit No. 23.

Mr. McCLANAHAN.—We consent to its being so marked, with the understanding that our objection made at the time of the original offer of the cards holds good as to the reoffered exhibit.

(Testimony of L. K. Siverson.)

(The cards are marked "Roberts Stock Card Exhibit No. 23.")

Mr. FRANK.—Q. I ask you to examine those cards and to identify them for the purpose of ascertaining whether they contain material which you actually know went on board or material which was absolutely necessary for the job that you were performing?

Mr. McCLANAHAN.—I object to the question on the ground it is immaterial.

A. Here is one card, A6405; part of the contents I know was used, but the other part I don't remember, and the part that I know was used is 95 pounds of zinc on the stern post.

Mr. FRANK.—Q. The rest of it you say you don't remember? A. No.

Q. The other is 6479. A. Yes.

Q. It is: "6 $\frac{1}{8}$ x1 $\frac{1}{2}$ split keys; 1 3/16x2 split keys; 1 1 $\frac{1}{4}$ hex. nuts, used on the balance piston steamer 'Hilonian.' On job number 5295."

Mr. FRANK.—I reoffer the cards in evidence.

Mr. McCLANAHAN.—We object to the reoffer on the ground that it is incompetent, irrelevant, immaterial, hearsay, self-serving, and not binding on the respondent.

Mr. FRANK.—Q. I now hand you for the same purpose Roberts [926—838] Exhibit Stock Cards 1 to 21, inclusive, and ask you to examine those cards and to identify them for the purpose of ascertaining whether they contain material which you actually know went on board or material which was absolutely

(Testimony of L. K. Siversen.)

necessary for the job that you were performing?

Mr. McCLANAHAN.—I object to the question as immaterial.

A. Yes.

Mr. FRANK.—Q. You have examined those cards as indicated and indicated certain ones. A. Yes.

Q. Those that you have indicated are in the same category as the cards you have testified to previously in the other exhibits. A. Yes, sir.

Mr. FRANK.—They are Roberts Stock Card, Exhibit No. 2, Roberts Stock Card, Exhibit No. 4, Roberts Stock Card, Exhibit No. 7, Roberts Stock Card, Exhibit No. 8, Roberts Stock Card, Exhibit No. 9, Roberts Stock Card, Exhibit No. 11, Roberts Stock Card, Exhibit No. 14, Roberts Stock Card, Exhibit No. 15, Roberts Stock Card Exhibit No. 16, and Roberts Stock Card, Exhibit No. 19. I reoffer the cards in evidence.

Mr. McCLANAHAN.—We object to the reoffer on the ground that it is incompetent, irrelevant, immaterial, hearsay, self-serving, and not binding on the respondent.

(Thereupon, at 12 M., the witness was excused until to-morrow morning, Thursday, September 14th, 1911, at 9:30, and a recess was taken until 2 P. M.)
[927—839]

AFTERNOON SESSION.

Mr. FRANK.—As Mr. Siversen has a little further time to spare, I will recall him for half an hour.

L. K. SIVERSEN, direct examination, resumed:

Mr. FRANK.—Q. Now, Mr. Siversen, were there

(Testimony of L. K. Siverson.)

any cases in which Adamson signed order cards for material that was used by you on board of the ship?

A. Yes, sir.

Q. Under what circumstances?

A. This will apply not only to Adamson, but also to Roberts and S. M. Robinson and Fred Boyd.

Q. What is that?

A. In many cases I was very much occupied, and I did not have time to write out orders for such things as a few cap-screws or bolts or rags or coal-oil or candles, and things of no great importance like that, and when I was very busy with something else I just told the helper to go up to the shop and somebody will give you an order up there.

Q. When did you tell the helper that?

A. If the helper came to me and he needed the candles or he needed the coal-oil, for instance, he was cleaning off some piece of machinery and he did not have any more rags or did not have any more coal-oil, he would come to me and want an order to get some more; I would be very busy and I told him to go up to the shop and get the order.

Q. Do you confine it to the articles you have mentioned or are those only illustrations?

A. Those are only illustrations.

Q. You have looked over Adamson's cards that are signed "R. A.," have you not?

A. Yes, sir. [928—840]

Q. And indicated what particular articles were signed for by him in the manner you have indicated—

Mr. McCLANAHAN.—What is the exhibit?

(Testimony of L. K. Siversen.)

Mr. FRANK.—We will make it an exhibit. They were introduced on numbers. For the purpose of this examination I will just have it marked on the back “Adamson Stock Card” without giving it any number.

Mr. McCLANAHAN.—I make no objection to the re-marking in the suggested way, except that I reserve all my exceptions which have been heretofore made to the additional cards at the time of their original offer.

(The cards are marked “Adamson’s Stock Cards.”)

Mr. FRANK.—Q. And those are A22, A47, A48, A92, A97, A1017, A1077, A1117, A1125, A1179 and C5986.

A. I also wish to state concerning those cards that there are several cards that I did not mark in that list of numbers, such as candles and so forth, that I know were issued for the ship by Mr. Adamson, to the man that I sent up there.

Mr. McCLANAHAN.—I object to any further statement of the witness. There is no question put to him.

Mr. FRANK.—Go on and make your statement, Mr. Siversen. I want to know the whole thing.

A. That is all I want to say.

Q. With respect to the candles while you mention that subject, was it or was it not necessary to use a large quantity on that job?

A. It was necessary to use a large quantity on that job, a much larger quantity than anyone not partic-

(Testimony of L. K. Siversen.)

ularly familiar with the business would think, because if you have a man working in a place where there is a draught and he is using a candle for illumination, he will place the candle where the wind blows on [929—841] the candle, and the life of a candle as a consequence, is only one-sixth of the time that it would last ordinarily. We have electric lights on the boat, but the electric lights are very inconvenient for some purposes. For instance, we have a piece of complicated machinery and we want to look underneath it or into some hole, we can always use a candle where we cannot use an electric light. In looking through this hole we will hold the candle on the side or upside down, and from the heat of the candle the grease melts off and the candle does not last any time. That is a reason why there is a tremendous amount of candles used.

Q. Did you examine the cards of Fred Boyd?

A. No, sir, I did not.

Q. Perhaps you had better do that. You have 15 or twenty minutes time yet. A. Yes, sir.

(The witness examines the cards of Fred Boyd.)

Q. Now, you have examined the cards of Fred Boyd and bearing the initials "F. B."?

A. Yes, sir.

Q. And indicated those that you consider in the same category as the cards to which you have testified on previous exhibits? A. Yes, sir.

Mr. FRANK.—I will ask to have these cards remarked Fred Boyd's Stock Cards.

Mr. McCLANAHAN.—We consent to the re-mark-

(Testimony of L. K. Siversen.)

ing of the cards with the understanding that our objections to the cards as originally introduced are still good and apply to the re-marked cards.

(The cards are marked "Fred Boyd's Stock Cards.")

Mr. FRANK.—The cards the witness has indicated are C6850, C6853, C6854, C6855, C6856, C6873, C6896, A1690. I [930—842] guess we will now have to let you go until to-morrow morning, Mr. Siversen.

**[Testimony of Edward Corcoran, for Libelant
(Recalled).]**

EDWARD CORCORAN, recalled for the libelant.

Mr. FRANK.—Q. Mr. Corcoran, I believe you testified that you were occupied in the boiler-shop, were you? A. Yes, sir.

Q. And did you have a helper there by the name of P. Larsen? A. Yes, sir.

Q. During the time that you were at work on this particular job state what you did with respect to keeping Larsen's time and making out his cards.

A. I made out Larsen's card and he signed it.

Q. How did you keep his time?

A. The same as my own. I put the numbers down on a slate. I copied the numbers from the slate on to my own card and also my helper's card. I signed my own card, and had my helper sign his.

Q. In other words, he was your helper?

A. Yes, sir.

Q. And was working along with you on the same piece at the same time? A. Yes, sir.

Q. I now hand you a batch of cards and ask you to

(Testimony of Edward Corcoran.)

select from those that are made out in your own handwriting in the manner that you have indicated.

A. Those cards I made out and put the numbers down and the time, and they were signed by Larsen (handing). These I have nothing to do with.

Mr. FRANK.—I offer the cards in evidence and ask that they be marked Edward Corcoran Stock Cards No. 30, and I will string them [931—843] together as a single exhibit. They are the cards of P. Larsen, under date August 28th, September 13th, 14th, 15th, 16th, 17th, 18th, 20th, 21st, and overtime night 21st, 22d and 23d.

Mr. McCLANAHAN.—I object to the offer upon the ground that the cards are incompetent, irrelevant, immaterial, hearsay, self-serving and not binding on the respondent.

(The cards are marked “Edward Corcoran Stock Cards No. 30.”)

Cross-examination.

Mr. McCLANAHAN.—Q. I understand, Mr. Corcoran, that these cards correspond in their job numbers, hours worked and articles worked on, with the cards of yours, of corresponding dates.

A. Yes, sir.

Q. They are supposed to be copies? A. Yes, sir.

Q. You just made them out for the convenience of the boy? A. Yes, sir.

[Testimony of William S. Taylor, for Libelant.]

WILLIAM S. TAYLOR, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Taylor, you were employed

(Testimony of William S. Taylor.)

in the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. In what capacity?

A. Foreman in charge of the hull construction of any vessel, repairs or anything in that direction.

Q. Do you remember the "Hilonian" being repaired over there at the works?

A. Yes, sir; I remember it quite well.

Q. During the repairs state whether or not you were called on board of the vessel, whether your duties called you on board of the vessel.

A. My duties?

Q. Yes.

A. To look after the ship-fitters, drillers, riveters and other men employed in the construction and repairs to the hull. [932—844]

Q. With respect to material that was used in such repairs what, if anything, did you do towards securing it?

A. I would, in the first place, be instructed in regard to the repairs, and I would look up the different material necessary for the job to see if it was not on hand. If it was not on hand I would order it from the Pacific Hardware and Steel Company and have it on hand ready for the job. The next part of the performance would be to get a fitter on the job to lay out the work in cutting out and prepare for riveters going down there to cut out rivets and drill holes, and so forth, getting out the bad work preparatory to putting in the new.

Q. You say "bad work"?

(Testimony of William S. Taylor.)

A. Yes, sir, bad work—work that was damaged.

Q. That had to be repaired?

A. That had to be repaired.

Q. And in that capacity what would you do in regard to seeing that the material was brought on board and applied to the job?

A. Well, I will take a case in point, the repairs to the stanchions. As I recollect, the forward deck had settled and the stanchions were all doubled up. They were round stanchions at that time, the old original stanchions, and showed evidence of weakness, and we were advised by Captain Saunders and Engineer Putzar, after looking over the job, that the best thing to do in that case would be to put in channel-iron stanchions, double in cases. Following along that down into the fore hold, the ladder on the fore side of the hatch showed weakness and was settling there.

Q. I do not care for you to go into those details. All I want to know is, the work that was performed on board there, whether or not you kept track of the material that went into it. [933—845]

A. Undoubtedly; I am coming to that. That was unusual material to use over there, and we had to look up material for the stanchions, being ship-channels, that is a special channel for ship construction and is hard to get here. I telephoned over to this side to Mr. Speed, to look up that material.

Q. Let us get back to the subject I am interested in, and that is whether or not you kept track of the material in your department that went on board of that vessel. A. Yes, sir.

(Testimony of William S. Taylor.)

Q. I show you a batch of order cards which bear your signature and numbered B8603, B8605, B8606, B8611, B8615, B8616, B8617, B9502, B9503, B9504, B9505, B9506, B9507, B9509, B9510, B9515, B9519, B9513, B9521, B9523, B9526, B9527, B9529, B9530, B9531, B9532, B9534, B9535, B9536, B9540, B9542, B9543, B9544, B9545, B9550, B9553, B9557, A455, A465, A467, A477, A478, A479, A483, A484, A485, A489, A490, A491, A492, A493, A494, A496, A497, A498, A829, A864, A867, A869, A870, A871, A889, A892, A895, A897, and A898, and ask you whether or not those are order cards made out for material to go on board of the vessel in your department.

A. They are.

Q. You have looked them over, have you?

A. Yes, sir.

Q. As foreman, state whether or not you saw to it that the material went wherever it was required.

A. I saw to it that it went where it was required.

Mr. FRANK.—We offer these in evidence and ask that they be marked W. S. Taylor Stock Cards No. 1.

Mr. McCLANAHAN.—I object to the offer on the ground that it is incompetent, irrelevant, immaterial, hearsay, self-serving, not binding upon the respondent, and ask that our objection apply to each and every card. [934—846]

(The cards are marked “W. S. Taylor Stock Cards No. 1.”)

Mr. FRANK.—Q. Now, Mr. Taylor, have you gone over the stock cards marked “A. Robinson’s Stock Cards Exhibit No. 1”? A. Yes, sir.

(Testimony of William S. Taylor.)

Q. And selected from them such cards as you are able to testify that the material went on board the vessel? A. Yes, sir.

Q. I will ask you whether the following have been indicated by you as the particular cards which you so identify. I will read them off so as to get them in the record: C577, C582, C592, C597, A918, A937, A997, B1004, B1005, B1006, B1012, B1014, B1018, B1025, B1026, B1032, B1033, B1038, B1041, B1049, B1057, B1061, B1071, B1075, B1078, B1087, B1090, B1096, B1097, C1118, C1123, C1127, C1147, C1142, C1152, C1156, C1163, C1173, C1175, C1180, C1185, C1199, B1506, B1510, B1516, B1522, B1530, B1546, B1549, B1550, B1571, B1580, B1584, B1591, B1599, B1810, B1814, B1828, B1839, B1854, B1867, B1871, B1880, B1884, B1894, B1897, B9551, B9552, B3616, B3622, B3629, B3638, B3649, B3656, B3658, B3661, B5646, B5655, B5658, B5691, B5688, B5670, B5683, B5700, B5684, B5679, B5672, B5664, B5665, B5695, C536, B1523, B1569, B1587, B1809, B1895, B3628 and B3663. A. Yes, sir.

Mr. FRANK.—All of which are reoffered in evidence at this time.

Mr. McCLANAHAN.—Objected to on the ground that they are incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent, and ask that our objection apply to each and every card. [935—847]

Mr. FRANK.—Q. Mr. Taylor, were the bolts and rivets especially in your department?

A. Yes, sir, especially in my department, worked

(Testimony of William S. Taylor.)

up in my department.

Q. What, if any, care did you take with respect to the issuing of the bolts and rivets?

A. With regard to the care, these cards were all issued from the toolroom which is my headquarters. I am in and out there throughout the day, and for convenience we allow the man in the toolroom, Robinson, to make out these cards to the parties calling for the material, and I would at times throughout the day inquire about quantities going out and so forth. In that way I would learn how things were going, and put a check on it if it was going too fast.

Q. Keep track of it? A. Keep track of it.

Q. Would there be any record in there, in the toolroom, where you could watch the quantities going out?

A. Just the stub. In regard to candles—

Q. I am talking now about rivets and bolts.

A. No, sir. A man would go up there and ask for a number of rivets, and Robinson would issue the cards. He would immediately go to the storeroom, and he would want 100 rivets, say. These rivets would be put on to the scale, and weighed and taken down on board of the ship.

Q. Weighed in the storeroom?

A. Weighed in the storeroom.

Q. You said something about seeing that they did not go out too fast.

A. I would ask him how the rivets were going out, and service bolts in regard to the quantities.

Q. Would you consult these cards at all when you

(Testimony of William S. Taylor.)

went up to the shop?

A. No, sir, not the cards; I would not consult them [936—848] because the cards are taken from him and taken to the storekeeper. I would find out about the quantities.

Q. Would he have a stub?

A. No, sir, not on these cards.

Q. State whether or not you would oversee the riveting on board of the ship.

A. I would oversee it.

Q. You would know the quantity that was necessary to be done? A. Yes, sir.

Q. And from your experience could you tell what quantity of rivets would be necessary?

A. I would have a good idea.

Q. Now, a great many of these cards are for the issuing also of candles. What were you going to say about the candles issued by A. Robinson?

A. Well, he has a tablet, and individual caulkers and different men working on board of the ship come up there and inquire for candles. When he receives the candles from the storeroom he gets a box as merchandise. He has a box of candles in the toolroom, and he would inquire of the party who came there and find out if he was working on such and such a job, where he was working and he was given the number of candles he asked for, two or one, and marks it down on this tablet against that number that he was working on. When he went up to a certain quantity he put it up in the order for him and turned it in to the office at the end of the day or the next morning.

(Testimony of William S. Taylor.)

Q. What part did you play in the giving out of the candles?

A. I am in the toolroom, out and in, and I look over his list and see that there is no mistake made, and that they are not working on wrong numbers or anything of that kind. [937—849]

Q. How about the quantities that are going out? How do you keep check of that?

A. I know the number of men that are around the job. A man ought not to get away with over four candles a day.

Q. That is, in your department?

A. In my department; yes.

Q. Your work is almost entirely day work?

A. Yes, sir, all day work.

Q. It is all day work? A. Yes, sir.

Cross-examination.

Mr. McCLANAHAN.—Q. You are still with the United, are you, Mr. Taylor? A. Yes, sir.

Q. These cards that you have just identified are cards that are issued by Mr. Robinson in the toolroom? A. Yes, sir.

Q. Do you wish to say that you know that all this material shown by these cards was used on the “Hilsonian” job? A. I do.

Q. In your department? A. Yes, sir.

Q. Suppose candles were needed in the engine-room; would that be your department?

A. In cases, yes.

Q. In this case?

A. There were machinists at work there; in that

(Testimony of William S. Taylor.)

case, yes, because they are issued by Robinson. There was no other department that was supposed to call on Robinson for candles, and he would not issue them.

Q. Except what department?

A. The engineering department.

Q. Yours is not the engineering department?

A. No, sir, the hull department.

Q. Yours is the hull department? A. Yes, sir.

Q. You do not know anything about the candles, for instance, burned in the engineering department?

[938—850]

A. No, sir. They were signed up by Roberts.

Q. So that these candles shown by the exhibit that you have just identified, "A. Robinson's Stock Cards No. 1," were used indiscriminately, were they not, in your department, or the engineer's department?

A. No, sir, not by my orders.

Q. By anybody's orders?

A. How could they get it? They could not get it from that man Robinson without they belonged to my department.

Q. That is what I want to get at. All these candles went to your department; is that it?

A. Yes, sir, that is it.

Q. Are you attempting to verify the stock job numbers appearing on each of these cards?

A. I don't understand what you mean.

Q. You have verified the material shown by the cards? A. Yes, sir.

Q. You have said that was all right and used on

(Testimony of William S. Taylor.)

the jobs in your department? A. Yes, sir.

Q. Now, I want to know if you can say the same thing about the job numbers. Can you speak for the truth of them? A. Yes, sir.

Q. You can?

A. They were in use at that time. It is some time ago since that happened that I cannot identify the numbers as particularly belonging to that job.

Q. The first card that appears here is "C502" on "A. Robinson's Stock Card." What is there that now makes you remember that that lot of candles were used on the "Hilonian"?

Mr. FRANK.—He did not identify "C502."

Mr. McCLANAHAN.—Didn't he?

Q. Let me take one card that you did identify. That happened to be the one on the dock. I will take "C502" which calls [939—851] for six candles. Why did you not identify those as candles burned on the "Hilonian" job?

A. I did not identify that because I thought it was a nominal thing; it would not amount to anything there in this case, but I would identify it as being a necessity, but I could not swear that they went into the job. I did not see them go and could not at this time tell, but I know by my instructions to Robinson not to give out candles indiscriminately to anyone, he has got to find out the numbers of the jobs.

Q. So that none of these numbers that you have spoken of and identified are numbers on which candles appear on the cards? A. No, sir.

(Testimony of William S. Taylor.)

Q. Why did you not identify "C550" of Robinson's cards?

A. I could identify it as a necessity.

Q. I say, why did you not identify it? Can you tell me why you did not identify that card?

A. No, sir, I can hardly say why I did not identify it. I know that it must have been used on the job or it would not have been there.

Q. That card calls for bolts, does it not?

A. It calls for bolts, and it seems to me we use an air-hose for driving the air-tools, and that hose, I suppose, possibly has been destroyed there or new fittings put into it and been taken up to the tool-room to be repaired.

Q. That is, the bolts shown on that card were used on the air-line? A. That is what it says.

Q. And the air-line is the hose that supplies the power for the tools? A. Yes, sir.

Q. Used in working on the job? A. Yes, sir.

Q. Those bolts, then, were used in repairing the air-line, you think? [940—852]

A. Yes, sir.

Q. So they were not used on the "Hilonian" at all?

A. In the air-line used in making the repairs on the "Hilonian."

Q. But not used on the "Hilonian"?

A. Not used on the "Hilonian."

Q. Would that apply to all the bolts that might appear on these cards where they were used on the air-line? A. I believe it would.

Mr. FRANK.—You had better examine the

(Testimony of William S. Taylor.)

cards, Mr. Taylor, before you answer. Then you will know.

Mr. McCLANAHAN.—I can ask the witness certainly that general question that where the cards have any material on them used on the air-line it would be a use similar to the bolts called for on card “C550” and testified to.

The WITNESS.—In doing the repairs they might break that hose, drop a casting on it, as is frequently done.

Mr. McCLANAHAN.—Q. For instance, I show you card “C59,” one nipper. That was used on the air-line, was it not? A. Yes, sir, sure.

Q. In repairing the air-line?

A. Yes, sir. The hose all goes out in good condition when it leaves the tool-room, and these extra fittings is in making up repairs.

Q. Part of this air-line is not on the ship at all. It is on the wharf, is it not? A. No, sir.

Q. On what? A. On the ship.

Q. All of it is on the ship?

A. All of it is on the ship.

Q. Where is it coupled to after that leaves the ship?

A. They have a manifold carried aboard the ship with a supply hose. [941—853]

Q. The supply hose is connected to what?

A. To the manifold on the ship, taken from the main line.

Q. Which is on the dock?

A. Which is on the dock.

(Testimony of William S. Taylor.)

Q. Can you tell whether some of these articles are used on the main line on the dock?

A. No, sir, it is for the hose.

Q. That I have called your attention to?

A. Yes, sir. The main line is 2½.

Q. For instance, "A918" calls for 12 bolts. That is used on the air-hose, is it not? A. Yes, sir.

Q. "A967," one sleeve. That was used on the air-line, was it not? A. Yes, sir.

Q. I see, Mr. Taylor, that many of these articles were used on the tank-tops. Did you have anything to do with the tank-tops? A. Yes, sir.

Q. What tank-top did you work on?

A. The after-hold.

Q. No. 4? A. On the port side.

Q. Is that No. 4?

A. I could not tell. I guess it is No. 4, abaft of the engine; the tank abaft of the engine-room.

Q. What did you do to that tank-top?

A. The tank-top had been blown up or busted up by pressure.

Q. Please answer my question, Mr. Taylor. I want to know what you did there.

Mr. FRANK.—He is telling you.

A. I am telling you; it was damaged by the extra pressure from underneath that was driven up. The top of it was lifted from the supports from the girders, all strung, and we had that damaged part removed. We found that it was put together in a faulty manner, and the vessel was not properly taken care of, and was advised by Mr. Putzar to make

(Testimony of William S. Taylor.)

extensive alterations in [942—854] there.

Mr. McCLANAHAN.—Q. Will you please tell me what the alterations were? That is what I asked you originally.

A. If you will give me a piece of chalk or pencil I can give you a little sketch.

Q. Never mind that. You renewed part of No. 4 tank-top? A. Yes, sir.

Q. How much did you renew?

A. I cannot recollect; all of it in the after-hold.

Q. All of No. 4 tank-top?

A. I think so. I would not swear to that. I could not tell, but I think so. It was all removed up to the bulkhead where the break in the shaft-alley was.

Q. Is there any way that you can refresh your memory? A. I could by going down to the ship.

Q. Was the repair work done on both sides of the ship or only on one side?

A. Partly carried to the other side.

Q. Partly carried to the starboard side?

A. Yes, sir, without removing the tank-top.

Q. What was partly carried to the other side?

A. The extra work in stiffening the vessel under the tank-top.

Q. Those would be the angle-irons?

A. Yes, sir.

Q. I am referring now specially to the plates?

A. Yes, sir. There were bad rivets that we could get at that were overhauled, but they did not lift the ceiling.

Q. Where? A. On the starboard side.

(Testimony of William S. Taylor.)

Q. How much of the plates were removed on the port side?

A. From the engine-room bulkhead to the bulkhead of the shaft-alley break. [943—855]

Q. You are sure of that? A. Yes, sir.

Q. What proportion would that be of the whole tank-top?

Mr. FRANK.—I cannot see the purpose of this examination since there is no dispute on the question of the amount of repairs. You have admitted it in your answer except the details you had not admitted.

Mr. McCLANAHAN.—I am glad you are admitting now that we have admitted anything. I have been chided often by you because we have not admitted something.

Q. What proportion, Mr. Taylor, was it of all of the plates that were renewed—one-third, two-thirds? A. The whole of it in the port side.

Q. The whole on the port side?

A. The whole after-hold and tank-top on the port side as far as I can recollect. [944—856]

Q. Then your testimony is that as far as you remember you renewed all the plates on the port side of the number four tank?

Mr. FRANK.—He did not say that. He said within certain limits.

Mr. McCLANAHAN.—Q. Let us get it clear, Mr. Taylor. What was it? Within certain limits, was it?

A. Within certain limits, yes.

(Testimony of William S. Taylor.)

Q. Who was the immediate authority over you in doing that work?

A. Well, Mr. Christy is manager. I don't know of any other ones unless it was the Matson people's representatives; they were directing and ordering the work.

Q. Who did you take your orders from?

A. Putzar and Captain Sanders.

Q. Were you working, then, for the United Engineering Works? A. Yes, sir.

Q. Who did you take your orders from when you took them from the United Engineering Works?

A. Mr. Christy.

Q. Was Mr. Christy down there every day?

A. He directed me to take the orders to do whatever they said.

Q. Why, has not that concern a general foreman?

A. I am the general foreman.

Q. You are?

A. Yes. In that line, in the hull construction.

Q. What does this man Williamson have to do with you—anything?

A. Very little. He was about there. Mr. Christy introduced him to me; he told me that should I want any machine work done in the machine-shop that Mr. Williamson was the man to see that it was done, as often in our work we connect together.

Q. So his supervision was not over your department? A. No, sir.

Q. What department was his supervision over?

A. Engineering department, as far as I know.

(Testimony of William S. Taylor.)

Q. So you had no one between you and Mr. Christy in your department? A. No, sir.

Q. Did you have anything to do with giving jobs their job numbers? A. Yes.

Q. What part did you play in that?

A. When a job was ordered, as early as possible I went to the office and informed them in the office what I had to do, what number should I take, and I went immediately back to the work, took hold of the number, write out a description of it and sent down the order to headquarters in the toolroom.

Q. The number, however, was given to you at the office?

A. Also written down in my presence, stamped; we have a stamp that came down on it. Then the order was sent out. I have a book for to put it in, something like that, put the order in.

Q. The order number was given to you in the office? A. Yes, sir.

Q. And you affixed to the order number the description of the work to be done under it?

A. I informed them what was to be done and they had a consultation with Mr. Putzar, as I understand.

Q. I am not referring to Mr. Putzar or to the "Hilonian" matter. I am speaking, now, generally of these jobs.

A. You see this job would come in, different jobs come in throughout the day—

Q. Mr. Taylor, I want to know who it was that made the description that was affixed to the order

(Testimony of William S. Taylor.)

number. Did you make that, the description of the work?

A. The description of the work, yes.

Q. You made that, did you? You made the description?

A. From information received from the Matson people.

Q. Oh, then you got the number from the office, the description of the work you placed to the number and it was distributed about the different departments? [946—858]

A. Through my department; yes.

Q. Do you remember any of the work for which numbers were given you by the office done on the "Hilonian"?

A. No, I don't remember one of them.

Q. You don't remember what?

A. One of them.

Q. One of what?

A. The numbers that was used.

Q. I did not ask you that question.

A. I understood the question that way.

Q. Read the question again, Mr. Reporter.

(The last question repeated by the Reporter.)

A. No.

Q. You cannot remember any work for which numbers were given you by the office for the "Hilonian"?

A. Not to be connected up with the number. I remember some of the work, but connected with the work I remember none of the numbers.

(Testimony of William S. Taylor.)

Q. I am not asking you whether you remember the numbers. Do you remember the work that was given the number?

Mr. FRANK.—I submit you have asked him if he remembers the numbers; that is what you have done.

The WITNESS.—That is what I understood it to be.

Mr. McCLANAHAN.—Q. Then if I have asked you to remember the numbers I withdraw that. I want you to remember the work for which a number was given. A. No.

Q. You can't remember any work done on the "Hilonian" to which a number was given?

A. No, sir.

Q. Would you ever give the same work two numbers, work of the same character?

A. I did not give the numbers; they give the numbers in the office.

Q. So if they would give you two numbers, separate numbers, [947—859] different numbers, for the same kind of work, that was not your business?

A. They would not do that.

Q. They would not do that? A. No.

Q. Well, I call your attention to your own card B9535. That is a checkered floor plate for the engine room floor for No. 5398, is it not?

A. Yes, sir.

Q. 9534, that is a checkered floor plate, is it not, for the engine room floor for 5325, is it not?

A. That looks like that number.

Q. That is a case where they did give two num-

(Testimony of William S. Taylor.)

bers to the same work, did they not?

Mr. FRANK.—You are asking the witness for a conclusion.

Mr. McCLANAHAN.—Q. On the same date, September 21. Can you explain that, Mr. Taylor?

A. Well, it is possible, there might have been two numbers in the engine-room.

Q. For checkered floor plating?

A. Yes, sir.

Q. On which you would issue orders the same day?

A. Well, that is unlikely, that there, but I will give you a reason for it, why there should be two numbers.

Q. Should be two numbers.

A. In the engine-room.

Mr. FRANK.—Q. You said “should”?

A. I said “should.”

Mr. McCLANAHAN.—Q. What is your reason?

A. In the start of the job they order certain work.

Q. Who do you mean by “they”? The “Hilonian” numbers?

A. Mr. Putzar, who had charge of the engine-room work. After that work proceeded he might tear it all to pieces.

Q. Are you stating a hypothetical case or facts?

A. Facts.

Q. Then you should not say “they might tear it to pieces,” but that they did tear it to pieces.

A. I have a faint recollection that they did make considerable alterations after they proceeded along

(Testimony of William S. Taylor.)

[948—860] with the work, and as far as I can recollect it meant extensive alteration, and I think that made it necessary for another number to guide it, to keep tab on it.

Q. So that one of these numbers here on the checkered floor plating work for the engine-room would represent the original number, would it? The original? A. I can't remember the place; I can't place them directly.

Q. I thought you were giving an explanation of the two numbers for the same work.

A. How it might have been.

Q. It might have been?

A. Yes, and I have a faint recollection it was, but I can't—

Q. Then your recollection is, your faint recollection is, that originally there was work to be done under the original specifications on the checkered floor plating for the engine-room; that was given a number, and that subsequently there were changes made in that and the change was given another number; is that it? A. That might have been done.

Q. You had nothing to do with the making of changes in the original specifications, did you?

A. No, sir. There was no specifications; we were working at the direction of Mr. Putzar and Captain Sanders.

Q. Didn't you ever meet a man named Klitgaard?

A. He was around there, but he was only a sort of adviser, in this capacity, that the after-tank was leaking, and he would direct attention to the weak points

(Testimony of William S. Taylor.)

as he knew them.

Q. He was the engineer of the ship, was he?

A. Yes, previous.

Q. Wasn't he then the engineer of the ship?

A. He was around there all the time.

Q. Klitgaard was the engineer of the ship, wasn't he?

A. I believe he was the engineer on the ship.

[949—861]

Q. What was Mr. Putzar?

A. He was the engineer that went out on her; he was around all the time. They both came together when the ship went to the yard. My orders was to work at the directions of Mr. Putzar.

Q. Who did you get your orders from?

A. Mr. Christy.

Q. When did you commence to work on the ship?

A. I can't remember.

Q. Well, I show you a card dated August 25th, A455; that refreshes your recollection to some extent that you were working on August 25th on the ship?

A. Yes, sir.

Q. You had received orders from Mr. Christy to work under Mr. Putzar's authority?

A. Yes; at that time, yes.

Q. And not under Mr. Klitgaard?

A. No. Klitgaard had not very much to say in the matter; only Putzar seemed to be the man that we had to go by at that time.

Q. Do you know that Mr. Putzar did anything else except superintend the work on the ship?

(Testimony of William S. Taylor.)

A. Well, he would advise them of the breaks, perhaps, and defective parts, through his experience in being in her, he knew where the weaknesses were.

Q. You are speaking of Putzar?

A. No, of Klitgaard.

Q. I am speaking of Putzar; did he do anything else except superintend the work as it went on?

A. I don't know in what capacity he would act. All he could do was to look after the work I should say.

Q. That is all you knew him to do?

A. Yes, that is all I knew him to do.

Q. Did you see him every day?

A. Every day.

Q. When changes were made in the work were you consulted? [950—862]

Mr. FRANK.—This is the most liberal cross-examination I ever heard of in my life, subjects that were not touched on. I think I shall have to consider you have made the witness your own witness on these matters and claim the right to cross-examine the witness.

Mr. McCLANAHAN.—Mr. Frank, you have never refrained from cross-examining your witnesses in this case.

Q. Read the last question.

(The last question repeated by the Reporter.)

A. They would make the changes themselves.

Q. So that you would not be consulted?

A. I would not be consulted. They would order it.

(An adjournment was here taken until to-morrow morning, Thursday, September 14th, 1911, at 9:30 o'clock.) [951—863]

Thursday, September 14th, 1911.

[**Testimony of L. K. Siverson, for the Libelant
(Recalled.)**]

L. K. SIVERSEN, direct examination resumed:

Mr. FRANK.—Q. I now show you Fred Boyd's cards "C6822" and "C6818" and ask you whether or not they contain material which was used on the ship in your department. A. I don't know.

Q. I show you A. Grotefend's Stock Card No. 1, and ask you the same question. A. I don't know.

Q. Now, Mr. Siverson, what was the nature of the work done on the "Hilonian" at this time with reference to this being a rush job or otherwise?

A. It was a rush job, and the work done was accomplished in perhaps one-half the time that it ordinarily ought to have been done in.

Q. That is, one-half of the time that that quantity would be done in the usual manner; is that it?

A. Yes, sir.

Q. What effect, if any, did that have upon the economical accomplishment of the work?

Mr. McCLANAHAN.—I object to that upon the ground that the witness is not qualified to testify as to that.

Mr. FRANK.—Q. Go on.

A. It had this effect, that when a job is rushed you have got to put on more men than you can economi-

(Testimony of L. K. Siversen.)

cally work on the job. For instance, if you have a piece of pump to overhaul, or some similar piece of machinery, it is ordinarily only one man's work and only one man can work on it economically, but being that the job has to be rushed through as fast as possibly can be done we have to put two men on it in order to get it through as fast as possible. The consequence of two men working on it [952—864] is that one man might have to wait for the other at times.

Q. That is, the work is separated into parts that co-ordinate; is that it? That is, each man gets a part of the work, and those parts have to be made to work together, is that it? A. That is it.

Q. And one man has to wait for the other in order to accomplish his work? A. Yes, sir.

Q. The result would be to get the entire job done faster, but at greater expenditure of time of men on it; is that it?

A. It would take a shorter time to do the job being that there are two men working on it, but it is really more time.

Q. That is more hours?

A. More hours, on account of there being two men.

Q. Was that condition general or otherwise throughout this work in your department?

A. That condition was general with the whole job, as the whole job was to be rushed through as quick as possible.

Q. Now, were there any other causes of unusual loss of time on that job? By unusual loss of time

(Testimony of L. K. Siversen.)

I mean effective work.

A. Well, there would be, for instance, such cases as it was decided that a certain piece of work was not to be done. To cite an instance: it was originally when the spring bearings were first removed that only two should be remetalled. Those two were removed to the shop to be remetalled, the remaining three were cleaned up, scraped and seraped and dressed up in the usual manner with oil grooves cut, placed aside ready to be replaced when the shaft and conditions required that it should be replaced. After these bearings were examined, however, and Mr. Putzar and Mr. Klitgard were called into consultation, it [953—865] was decided that they would have to be remetalled also, so they were removed to the shop and remetalled as well, and the work of cleaning and dressing them, cutting new oil grooves and putting them aside was of course all unnecessary.

Q. That is, lost work?

A. It was lost inasmuch as they had to be remetalled, all the metal was melted out of them.

Q. And this same work had to be done over again after they were remetalled?

A. Any bearing that is remetalled has got to be dressed in the same manner, the oil grooves to be cut and scraped off on the side to give clearance for the shaft as it were on the side. That is general with any new bearing.

Q. Were there any other instances of lost time similar to that in your department?

(Testimony of L. K. Siversen.)

A. When these bearings had to be remetalled, that necessitated the filing of the shaft where the shaft rested on the bearings. The shaft was corrugated on account of the wear and the bearing was corrugated according to the shaft, to correspond with the corrugations on the shaft where it was resting. When the bearings were remetalled they would be bored out and would be straight. The shaft being corrugated it would only rest on the bearings in places, in the high spots. These high spots had to be removed by filing them off to make the shaft straight. That is work that was also caused of course by the remetalling of the bearings.

Q. Did I understand you to say that these changes were made after the work had progressed along the original lines and then had to be retraced?

A. As far as the bearings are concerned, but as far as the filing of the shaft is concerned, that did not cause any delay in the operation. The shaft was laying there and nothing was [954—866] done to the shaft until it was decided to remetal the bearings.

Q. Were there other instances of a similar nature through your work, or was that only a single instance?

A. There were several instances of that kind, but I cannot recall any specific instance at present except just that one. In a job of that description it always occurs, or it generally occurs.

Q. What do you mean by a job of that description?

A. A rush job.

Q. That is, it occurs that they proceed along cer-

(Testimony of L. K. Siversen.)

tain lines and when they are rushing along, and when they get to a certain point they find that something else not contemplated must be done which necessitated redoing something you have already done; is that it? A. Yes, sir.

Q. Was there anything of that nature in connection with the crank-shaft?

Mr. McCLANAHAN.—What nature?

Mr. FRANK.—That we are talking about now.

A. Not that I can recollect.

Q. Do you remember whether it was originally intended that the crank-shaft should be removed to the shop to be turned? A. Yes, sir.

Q. Was it done? A. No, sir, it was not done.

Q. Why not?

A. For this reason: when the shaft was raised up out of the bearings Mr. Klitgard and Mr. Putzar, and the authorities at the work, were called into consultation. They looked at the manner in which the shaft could be removed, and it was decided that the shaft could not be removed from the engine-room without first removing the after bulkhead in the [955—867] engine-room, cut out the bulkhead because there was not room for the shaft to get out in any other manner. Rather than do this it was decided to first place the shaft on suitable blocks on top of the housing and to try the shaft with a line to see if the shaft was straight and parallel because the reason why the shaft was to be removed to the shop and put in a lathe was that they supposed that the shaft was sprung, not running true. Now, before

(Testimony of L. K. Siversen.)

they felt that they would be justified in removing the shaft, being that it necessitated the cutting out of the bulkhead, they felt it was right to first place the shaft on blocks on top of the engine-housing and try the shaft with a line to see if the shaft was straight. It was found that the shaft was straight, but where it was resting in the bearings it was out of round, and would have to be filed round, so that is the reason why the shaft was not removed to the shop.

Q. Now, when the vessel was placed on the dry-dock what, if anything, was discovered there that detained her on the drydock longer than had been anticipated?

A. I don't remember whether it was originally intended that the rudder gudgeons should be bored out or not, but at any rate when the ship came on the dock it was found necessary and all the gudgeons were bored out. That is a big job, and that is what delayed the ship on the dock.

Q. Just explain so that the Court will understand. It probably does not know what a gudgeon is.

A. A gudgeon is a part of the sternpost that projects back that is bored out in which the pintle for the rudder sits. It forms the pivot on which the rudder swings. These holes in [956—£68] these so-called gudgeons get worn and rust out. The effect is that the rudder keeps banging and swinging back and forth. When these holes get worn too bad they have to be bored out round and a bushing put in.

Q. That is a filling to make the hole the original

(Testimony of L. K. Siversen.)

size and round. In order to bore these holes out it necessitated putting a bar down right from the deck right down to the keel. Each hole has to be bored out separately. It is a very hard job to set the bar just right and get everything just in line.

Q. Where on a rush job men are working overtime what, if anything, can you say with regard to the efficiency of the men as compared with the normal amount of work that they will do?

A. Well, of course, I would say this: that if a man is working two or three hours overtime for one or two or three days, I don't think that it will affect the man's efficiency very much, but where it is done continuously for a month, I think after the ordinary day's work the man feels rather tired, and that he is not as efficient as he was just when the day's work was done.

Q. In other words, they do not do a normal amount of work on a job of that sort? A. No, sir.

Q. Mr. Siversen, was there any permanent electrical work done in the engine-room and connections with the engine-room of that ship at this time?

A. Yes, sir.

Q. What was the nature of that work?

A. In removing all the different parts of the machinery, piston rods and pistons and connecting-rods and so forth, to the shop, it necessitated the removal of all the gratings in front of the engines, and all the electrical work that was attached to [957—869] the gratings was removed also, and also the electrical work in the shaft alley. It was all destroyed as far

(Testimony of L. K. Siversen.)

as I remember by the removing of the shaft. We were using a cannon down there to shoot out the coupling-bolts with. After the explosion of this cannon sometimes the balls would fly and hit the pipe or some similar thing, and all the electrical work in the shaft alley was destroyed. That was renewed, which, of course, was permanent work, and also the work in the engine-room where it was taken out in order to facilitate the removal of parts of the machinery under the gratings up along the bulkhead, up along the engine columns and under the engine-cylinders.

Q. Now, Mr. Siversen, you have gone over the material cards of several of these exhibits and selected from them some which you could say went into the ship in your department. Others you did not mention. By that are we to understand that they did not go into the ship, or simply that you have no knowledge of it, which?

A. I wish to say as regards the cards that I have marked, that I did not sign, as well as the cards that I have not marked, that I did not sign, that the cards that I have marked is material of the nature of which I know went into the ship, and the amount that I have marked I do not consider more than usual, more than necessary. The cards that I have not marked are cards that I have no knowledge of, but I have not seen any cards of a nature that I do not think that that material went into the ship.

Q. I think I understand you, but just read that, Mr. Reporter, and let me see how it reads. (The

(Testimony of L. K. Siversen.)

Reporter reads the answer.) That is, you mean that you have seen no cards the material on which you would say did not go into the ship. Is that what you [958—870] mean to tell us?

A. That is what I meant.

Q. What was the general condition which you found in the vessel after you had opened her up, with respect to being in a better or worse condition than she appeared before she was opened up?

Mr. McCLANAHAN.—I object to that as immaterial, and on the further ground that the question has already been answered by the witness.

A. We found that there were a great many things that were a lot worse than we anticipated.

Mr. FRANK.—Q. And what did they necessitate, if anything, with respect to the work?

A. To cite an instance: the thrust, the hauling down bolts for that were rusted up and had to be renewed, and the washers underneath that fitted under the angle-irons had to be renewed. The couplings of the line-chart were broke and it was found that the couplings were very badly rusted in between the faces so as to make it difficult to tell when the shaft was in line. These couplings all had to be dressed up. There was one set of couplings, for instance, that were so bad that that length of shaft had to be removed to the shop, the length of shaft immediately behind the thrust-shaft.

Q. Were those serious matters?

Mr. McCLANAHAN.—I object to that as immaterial.

(Testimony of L. K. Siversen.)

A. When it necessitated a piece of shafting to be removed to the shop it entails a great expense. There is also another thing: when these couplings were faced off it made the shaft a certain amount shorter. That pulled the whole after-length of the shaft ahead a certain amount, and pulled everything out of position. For instance, all the spring bearings had to be removed forward, the amount that the shaft was made shorter. [959—871] That meant slottings of holes in the pedestals of the spring-bearings.

Mr. FRANK.—Q. Were there other matters of a similar nature throughout the work?

A. I cannot recall any specific instance just at present. There were several things of course which we discovered had to be done after the several pieces of machinery were moved, that we did not expect before, such for instance as the making of a new bearing under the beam-center, which was found to be cracked—that is, the bearings was found to be cracked. That meant raising the beam-center and new bearings placed under it.

Q. At whose instance or order were these extra changes made? A. Mr. Putzar and Mr. Klitgard.

Q. With reference to the gratings and ladders, what changes were made there by Putzar and Klitgard, if you remember?

A. The engine-room platform throughout was reconstructed. It was lowered from its original position, and a continuous platform made from the ice-machine room over to the storeroom; the handrails

(Testimony of L. K. Siversen.)

around the engine were also all remodeled, and the different openings in the gratings were made different from the original. Some new pieces of gratings of course had to be made, and new handrails as well, and two or three old pieces of grating were condemned because they did not fit.

Q. I will ask you again, what was the general condition of the engine-room department when you undertook the work, with reference to being run down or otherwise.

Mr. McCLANAHAN.—I object to the question as immaterial and on the further ground that it is cumulative.

A. The engine was very much run down, inasmuch as the brasses were worn very badly and were very low, for instance, the link-brasses. [960—872] They were worn so much that the links had to come too short, and we had to make new distance pieces between the brasses in order to make up for the length.

Mr. FRANK.—Q. I do not care so much about specific instances now as the general condition of the entire engine-room department.

Mr. McCLANAHAN.—The same objection.

A. I also answer as I did before, that things were in a very poor condition.

Cross-examination.

Mr. McCLANAHAN.—Q. At the time that the work was done on the “Hilonian” how long had you been in the employ of the United Engineering Works?

(Testimony of L. K. Siversen.)

A. I became an employee of the United Engineering Works in August, 1907.

Q. In what capacity did you first enter their employ? A. As a machinist.

Q. At the time of the work done on the "Hilonian" had you ever worked before as foreman of a job?

A. Yes, sir.

Q. Had you ever worked before as foreman of a job of the magnitude of the "Hilonian" job?

A. No, sir.

Q. So that it was your first job of that magnitude?

A. As big as that, yes.

Q. You are a machinist, are you, Mr. Siversen?

A. Yes, sir.

Q. Not an engineer? A. Yes, sir.

Q. You are not an engineer?

A. I am an engineer.

Q. You are an engineer? A. And a machinist.

Q. What kind of an engineer?

A. Marine engineer and stationary engineer.

Q. Have you a license?

A. I have a marine engineer's license. [961—873]

Q. What vessels have you operated on?

A. I have operated on the steamer "Havana" of the Ward line in New York.

Q. In what capacity?

A. Third assistant. I have operated on the steamer "Texas" of the American-Hawaiian line as third assistant. I have operated on the steamer "California" as second assistant. I have operated

(Testimony of L. K. Siversen.)

on the steamer "Alaskan" as second assistant.

Q. Then, Mr. Siversen, you know, do you not, that the condition of a ship's machinery can only be determined with any degree of accuracy by the actual operation of the ship, do you not? In other words, you cannot, as an engineer and as a machinist, go down into an engine-room, look at the machinery and tell whether that machinery is in good working order or bad working order, but that that test must be made by the actual operation of the ship; is that not so?

A. No, sir.

Q. It is not so? A. No, sir.

Q. In other words, in your opinion, a machinist can, by looking at the machinery in the ship and not operating it, tell as truly the condition of that ship's machinery as the engineer who operates the ship?

A. That is not the case either.

Q. That is not the case? A. No, sir.

Q. That is, the engineer who operates the ship knows more about the condition of the machinery than the machinist?

A. It depends on the machinist.

Q. It depends on the machinist?

A. Who is the machinist.

Q. In what way?

A. There are machinists and machinists. There are machinists who are engineers and machinists who are not engineers.

Q. All right. We will take another case. You are an engineer. [962—874] Can you tell the condition of the machinery in the "Hilonian"—

(Testimony of L. K. Siversen.)

A. Yes, sir.

Q. —by looking at it. Excuse me.

A. I thought you were through.

Q. —by looking at it and not operated as effectively and as truly as the engineer who has operated the machinery? A. Yes, sir.

Q. Just as well? A. Yes, sir.

Q. How do you determine the condition of the machinery of a vessel by simply looking at it as far as its operating capabilities are concerned?

A. Because—

Q. I say how do you?

A. I know the way an engine is constructed; I know the way an engine is directed and I know the way an engine runs, and I know that an engine to run effectively and economically and run well has got to be in line. If an engine is not in line it cannot run well under any circumstances, and it is furthermore dangerous if an engine is very much out of line, inasmuch as there is great liability of pieces of machinery breaking on account of the undue strain that is being put on those parts of the machinery when the engine is in action.

Q. And all that you can tell by simply looking at it?

A. Yes, sir—not by simply going down and looking at the engine, but by examination.

Q. Did you make any examination of the “Hilonian” engines? A. Yes, sir.

Q. When?

A. When the “Hilonian” was at the United En-

(Testimony of L. K. Siversen.)

gineering Works we run lines all through the engine. The whole engine was tried for alignment. [963—875]

Q. Why was that done?

A. Because it was ordered to be done.

Q. Did you take your orders from the United Engineering Works or from Mr. Putzar or Mr. Klitgard? A. Both.

Q. Who instructed you to take orders from the representatives of the ship? A. Mr. Wilhelmsen.

Q. Was he your immediate superior?

A. He was my superior.

Q. When did he tell you to take these orders?

A. When I took charge of the steamer "Hilonian" I was introduced to Mr. Klitgard as the chief engineer of the "Hilonian," and to Mr. Putzar as the company's representative.

Mr. FRANK.—Q. By the company you mean whom?

A. The Matson Navigation Company's representative.

Mr. McCLANAHAN.—Q. Who introduced you?

A. Mr. Wilhelmsen, and Mr. Wilhelmsen told Mr. Klitgard and Mr. Putzar as follows: "This is Mr. Siversen and he will be our representative. At any time when we are not present you may communicate with Mr. Siversen and he will do anything that you wish."

Q. You took that, then, that your superior had given you instructions to take orders from Putzar or Klitgard? A. Yes, sir.

(Testimony of L. K. Siversen.)

Q. Did you take orders from Putzar or Klitgard after that?

A. If Mr. Putzar or Mr. Klitgard asked that anything be done it was done.

Q. Is that an answer to my question? Did you take orders from Putzar or Klitgard after that?

A. Yes, sir.

Q. Did you take orders from either of those men immediately after that, or was the job long progressed before you began to take orders from either of those men? [964—876]

A. No, sir. If I may be allowed to make an explanation—

Q. Yes.

A. Mr. Klitgard, it appeared at the beginning of the job, was the man who had charge of the work as far as orders were concerned, and Mr. Putzar, it seemed, was the man who was the company's representative, and in as much as he was to see that the job progressed along economical lines; he was also supposed to keep the time of the men, to see that there was not any unusual quantity of men put on the ship, and to keep their time. Further along when the job progressed it seemed and became generally understood that Mr. Putzar was the future chief engineer of the steamer "Hilonian," and that Mr. Klitgard was going to resign on the completion of the work. It seemed or it appeared as though Mr. Klitgard resigned a great deal of his authority to Mr. Putzar.

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Appellant,

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(Pages 1105 to 1504, Inclusive.)

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(Testimony of L. K. Siverson.)

Q. That is, Mr. Putzar took on himself authority which theretofore had been assumed by Klitgard?

Mr. FRANK.—I object to that assumption that he took it on himself.

Mr. McCLANAHAN.—Mr. Frank, you know as well as I do that is a perfectly proper question on cross-examination.

Mr. FRANK.—I will not argue it with you.

Mr. McCLANAHAN.—It is not fair for you to interject your objections in that way, which gives a witness a pointer as to how he may answer the question or avoid answering.

Mr. FRANK.—It is perfectly fair for me to make an objection to an assumption which has no foundation either in the record or in fact which is merely intended to mislead instead of to elucidate the fact.

Mr. McCLANAHAN.—Q. Mr. Siverson, I have no intention in my examination of misleading you in any way. When I put my [965—877] construction on your statement of the evidence, if it is wrong I wish you would tell me so. You will, will you?

A. I did not quite understand that.

Q. If I put my construction on your evidence wrong you will tell me so. Now, Mr. Reporter, read my construction of his evidence, which is objected to. I want to say, Mr. Frank, I have no intention to hamper you in your making proper legal objections to my questions.

Mr. FRANK.—That is what I am trying to do.

(The Reporter reads the question to the witness.)

A. Well, that is a very difficult question for me to

(Testimony of L. K. Siverson.)

answer. I do not know whether the man took the authority on himself or whether he was vested with the authority from someone else.

Mr. McCLANAHAN.—Q. Mr. Putzar seemed, then, to take on, towards the latter part of the job, the authority which Mr. Klitgard theretofore had assumed?

A. I do not mean to say that Mr. Klitgard resigned his authority, by any means, because Mr. Klitgard did not resign his authority. Nothing was done without Mr. Klitgard's consent, but it appeared as though Mr. Klitgard allowed Mr. Putzar to make suggestions as it were.

Q. Mr. Klitgard allowed Mr. Putzar to assume broader powers than he did at first; is that the idea?

Mr. FRANK.—He has answered you fully.

A. Yes, sir, that is all right.

Mr. McCLANAHAN.—Q. Now, Mr. Siverson—

A. (Intg.) Excuse me; I want to make another statement regarding that. I do not wish to say that it was Mr. Klitgard who done this. I do not know anything about that. I am not supposed to know what was going on between Mr. Klitgard and Mr. Putzar. I am just stating what appeared. [966—878]

Q. I understand. I understand that you assumed the management of this work as soon as the vessel was turned over to the United Engineering Works; is that correct?

A. It was either one or two days following, I think it was the day following, that the ship arrived, be-

(Testimony of L. K. Siversen.)

cause we had an accident at the power-house at the United Engineering Works just the day the vessel got in. The dynamo broke down and we were unable to get any power as we did not have any connection with the city. I was working night and day—it happened that Mr. Nelson and I were working night and day on that dynamo in the power-house to get that finished, in order to get the machine-shop in operation; and the day following—I think it was the day following—I took charge of the “Hilonian.”

Q. Now, when you took charge did you know then that it was a rush job?

A. I was told it was a rush job.

Q. Who told you that?

A. Now, I would not say specifically who told me that it was a rush job because that I cannot remember, but I was given to understand that the ship was to be out in a certain length of time, and the job was to be rushed through as quick as it could be done.

Q. Were you not told and given to understand that the job must be finished in 25 days?

A. That I do not remember, Mr. McClanahan.

Q. Did you ever see the specifications?

A. Yes, sir, I had a set of specifications.

Q. See if you can recognize these as the specifications that you saw (handing).

A. I want to say something before I answer that. I have handled a good many specifications since that time and it would be very difficult for me to tell whether these are the specifications that I got. [967—879]

(Testimony of L. K. Siversen.)

Q. Of course you cannot tell until you look it over. Please look it over.

A. Yes, I will. (After examination.) This looks like the specification, inasmuch as the majority of the work here stated was done, but there was a lot of work done that is not stated here. Here is the instance of this column.

Q. What number is that?

A. No. 7. That column was never put in.

Q. What was done instead of the column?

A. Instead of the column there was a composition of bronze patch cast and fitted to take the housing and condenser down over the entire plate underneath.

Q. That took the place of the column; performed the same work?

A. Yes, sir, it was reinforced, the part where the house was cracked.

Q. You have read all this?

A. Yes, sir. [968—880]

Q. Your recognition is of the specifications as they originally came into your hand but you want to qualify that by saying there were changes in them?

A. There were changes made in the work.

Q. In this work?

A. There were lots of changes made in that work there, but you know I have seen a lot of specifications since the time and I would not say that these are the specifications that I received at that time.

Q. But it looks like them?

A. It looks like them; yes.

Mr. McCLANAHAN.—I ask that this be marked

(Testimony of L. K. Siverson.)

Respondent's Siverson's Exhibit "A."

Mr. FRANK.—We object to it on the ground, in the first place, that it is incompetent and immaterial, and in the second place that this entire examination is not proper cross-examination.

(The document is marked Respondent's Siverson's Exhibit "A.")

Mr. McCLANAHAN.—Q. I believe you stated that you knew when you first took hold of the job that it was a rush job, Mr. Siverson? A. Yes.

Q. And you did not remember where you got that idea? A. No, I did not.

Q. Well, does not an examination of Respondent's Siverson's Exhibit "A" refresh your recollection now as to where you got the idea that it was to be a rush job?

Mr. FRANK.—I object to that; in the first place Respondent's Siverson's Exhibit "A" is not a paper made out by him and not a paper on which he can refresh his recollection; and in the second place, he has not testified that it is a true copy of the specifications that he received, only it looks like it, and therefore it is not a proper paper from which a witness can refresh his recollection. [969—881]

Mr. McCLANAHAN.—Then I call upon the libellant in this case to produce the copy of the specifications referred to by the witness.

Mr. FRANK.—Very well; if we can find them, we will produce them.

Mr. McCLANAHAN.—Let us have them now.

Mr. FRANK.—I have not got them.

(Testimony of L. K. Siverson.)

Mr. McCLANAHAN.—Then I shall claim that this is a copy and claim the privilege of examining the witness on this copy.

Q. Mr. Siverson—

Mr. FRANK.—One moment; that does not do away with the objection.

Mr. McCLANAHAN.—No; I understand the objection is made.

Mr. FRANK.—Of course I can't stop you making the examination; we are not in court and we have nobody to rule upon it. The objection stands.

Mr. McCLANAHAN.—Q. Mr. Siverson, you have examined a number of stock cards in this case, have you not? A. Yes, sir.

Q. That were not made out by you?

A. Yes, sir.

Q. And the examination of the cards has helped your memory, has it not, in the particulars to which you have testified? A. Oh, yes.

Q. Now, I am asking you to examine this particular exhibit which you think looks like the specifications that you originally had and see if an examination of that does not help your memory as to the source of your information that this was to be a rush job.

Mr. FRANK.—That does not remove or cure the objection. I still insist upon my objection.

Mr. McCLANAHAN.—That is all right.

A. I wish to say, in answer to your question, that I was given to [970—882] understand that the "Hilonian" job was a rush job long before I ever

(Testimony of L. K. Siversen.)

saw any specification; before ever the "Hilonian" came in there I was given to understand that the "Hilonian" job was a rush job.

Q. So that must have come from somebody in the United Engineering Works?

A. Well, presumably so; presumably so. I could not say that.

Q. So when you got the specifications—

A. I knew, as I say, that the "Hilonian" job was a rush job before ever I saw the specifications.

Q. And before the ship had come to the yard?

A. Yes, from rumors. Now, I will not say that my source of information as regarding the rush job was from the specifications because I cannot remember at that time having the specifications; and there are other things than the specification I can't remember.

Q. Now, will you take the specifications, Exhibit "A"—will you examine the first item of the specification there and tell me if that work was not done on the ship?

A. This work was done, and more work was done to the air-pump than what it says here.

Q. What further work was done to the air-pump?

A. All parts of the air-pump was removed to the shop and put in the lathe to true up the faces.

Q. Anything else?

A. And I think the air-pump bearing was bored out. Now, that I am not positive of.

Q. Anything else?

(Testimony of L. K. Siversen.)

A. The part that the air-pump sits on was also bored out.

Q. Anything else?

A. There were additional studs put into the condenser, under the holes.

Q. Yes; but none of the studs were enlarged, were they? [971—883] A. Oh, yes.

Q. Studs were enlarged and additional studs put in? A. Yes, sir.

Q. Are you sure of that? A. Yes, sir.

Q. Anything else?

A. Well, that is all I can remember just now.

Q. Now, turn to No. 2 of the specifications; that work was not done, was it?

A. Well, now, this work here, I began to think of that when I first saw it. I do not know whether that work was done or not, because I had three jobs after that that had this same work on the specifications, and I can't remember whether that was done or not.

Q. Let me refresh your memory. Don't you remember that instead of No. 2 of the specifications you put on a balance cylinder on to the low pressure?

A. Yes, I know we put on a balance cylinder; I know that.

Q. Don't you know that work was intended to take the place of the No. 2 item of the specifications?

A. No; that I do not remember, sir. That I will not say anything about the removing of that seat, because I don't remember that.

Q. Turn to No. 3 of the specifications; was not that work all done? A. Yes, sir.

(Testimony of L. K. Siversen.)

Q. Turn to No. 4 of the specifications; was not that work all done? A. Yes, that work was done.

Q. No. 5 of the specifications; was not that work all done?

A. There was some eccentric straps remetalled, but I don't remember which ones they were. I think though that the high pressure and the low pressure were among them, but I don't remember now if those straps were remetalled, or if there were brass liners cast for them; I think there was brass liners cast and placed in those [972—884] straps. I might have that mixed up with some other job. I would not say, but I think there was some brass liners cast in semi-circular form and screwed into the top half of the straps and fitted in that way, and also had to be offset on account of the liner from the valve stem to the eccentric not being fared.

Q. That is your recollection of the work done under No. 5?

A. Yes, that is my recollection. I am not positive whether these brass liners, as I say, were put in there or remetalled, but I think it was the brass liners.

Q. Turn to No. 6, please, Mr. Siversen; that work was completed, was it not, as specified?

A. Yes, sir.

Q. Turn to No. 7; that work you say—

A. (Intg.) Was not done.

Q. Was not done as specified, but instead a manganese patch was put on?

A. Yes, a bronze patch was put on and fitted for the bolts and pumped full of red lead putty.

(Testimony of L. K. Siverson.)

Q. Turn to No. 8; that work was done as specified, was it not?

A. Stripped crank-shaft of oil reciprocating gear was done.

Q. No. 8 we are talking of.

A. I made a mistake. Yes, those were all done.

Q. That was done? A. Yes, sir.

Q. Now, turn to No. 9; is it not so that No. 9 was done with the exception that the crank-shaft was not removed to the shop?

A. The work was all done with the exception of the removing of the crank-shaft and the boring of the bearings in place.

Q. That is your answer, is it?

A. But there was additional, other work.

Q. Yes, I understand.

A. But you are not asking about that.

Q. I am not asking about that. It was all done except the removing of the crank-shaft and the boring of the bearings in place? [973—885]

A. Yes, sir.

Q. Now, turn to No. 10; was not that work all done?

A. Yes; that work was all done, as far as I can remember.

Q. Turn to No. 11; was not that work all done, as called for? A. Yes, that plate was put on there.

Q. The work was all done as called for by that specification?

A. There was work—if I don't remember wrong, there was work entailed by the placing of this plate

(Testimony of L. K. Siversen.)

there that was not originally calculated on.

Q. Well, now, you are getting away from my question, I think, Mr. Siversen. I want to know whether the work called for in No. 11 of the specifications was all done; there might have been other work.

A. It was done.

Q. It was all done?

A. Yes, that part of it was done.

Q. Now, examine No. 12 of the specifications and tell me whether that work was not all done as called for by the specifications. A. Yes, that was done.

Q. The cement was only put under the boilers?

A. No; there was bitumastic.

Q. Don't you remember that cement was only put under the boilers?

A. No, sir. I think there was bitumastic all over this engine-room and boiler-room tank-tops. There was cement on the tanks in the hold.

Q. Did you have particular charge of that work?

A. Of the bitumastic work, no. But I remember that while the bitumastic man was working under the boiler the smoke was so dense that all our men had to quit on account of it, and the man, the bitumastic man, had to come back during the night. [974—886]

Q. Then that work was done as called for by the specifications, as you remember it—No. 12?

A. Well, the way I understand, yes. It says that the bitumastic is to be covered with two inches of cement. Isn't that what it means?

Q. Yes.

(Testimony of L. K. Siverson.)

A. Well, I do not remember if that was done. I do not remember that that cement was on top of the bitumastic, I can't remember that.

Q. But with that exception the work was done?

A. Yes, sir.

Q. Now, turn to No. 13; was not that work done as called for by the specifications? A. I don't know.

Q. That is not in your department?

A. No, sir.

Q. Turn to No. 14; was that work done as called for, or do you know?

A. That work was undoubtedly in my department, but I don't remember it.

Q. That is No. 14; you do not remember that?

A. Yes, 14 was in my department, but I don't remember it.

Q. Let me see if I can refresh your memory. Don't you remember that the repairs called for by 14 to the windlass were not done, but that two channel iron supports were supplied and fitted under the break of the forecastle-head?

A. Well, that part, as reinforcing the deck under the forecastle-head, that would not be in my department.

Q. So you would not know anything about that?

A. No.

Q. Now, don't you remember that the repairs to the windlass were not made? A. I do not, sir.

Q. You do not remember.

A. I do not recall anything about what was or was not done to the windlass.

(Testimony of L. K. Siverson.)

Q. What about No. 15; was not that work done according to the specifications? A. Yes, sir.
[975—887]

Q. Now Mr. Siverson, you had these specifications with you right along as the work went on, didn't you?

A. I had a set of the specifications.

Q. And worked according to the specifications, did you not, in the particulars where the specifications were carried out?

A. Well, really the specifications were consulted—when any particular line of work came up that was called for by the specifications, Mr. Klitgaard and Mr. Putzar would be called and their opinion would be asked regarding so and so, in which manner they wanted it done.

Q. And it would be done in that way?

A. It would be done in that way.

Q. So that when any of the specification work came up you consulted with Mr. Klitgaard or Mr. Putzar? A. Yes, sir.

Q. And you then did the work according to their suggestion? A. Yes, sir.

Q. Did you know, Mr. Siverson, that the work being done under the specifications was a contract job? A. No, sir.

Q. You did not know that?

A. No, sir. I heard rumors, though, if you wish me to make the statement.

Q. Never mind the rumors.

Mr. FRANK.—Rumors are not evidence, Mr. Siverson.

(Testimony of L. K. Siversen.)

Mr. McCLANAHAN.—Q. I believe you have stated that a rush job requiring overtime work increased the cost of the work. Is that true?

A. Yes, sir.

Q. Because it increased the necessity or raised the necessity for an increased amount of labor?

A. I wish you would word that otherwise. [976—888]

Mr. FRANK.—Q. Word it yourself; frame it yourself.

A. Well, I can answer what my opinion of it is.

Mr. McCLANAHAN.—Q. Yes.

A. That when a certain piece of work has got to be done that ordinarily takes three days to do, if it has got to be done in one day it will cost more than if it was done in three days.

Q. Well, one of the elements of the increased cost would be the increased amount of labor necessarily put on it? A. Why, certainly.

Q. A greater number of men would have to be put on it?

A. Yes, because the men could not work in harmony with one another.

Q. You would not increase, then, the cost of a particular job that you were given to work out unless you had authority to do so from the office, would you,—the office of the United Engineering Works?

A. Personally, you mean?

Q. Yes.

A. Why, if I am given a certain piece of work and my superiors tell me that this work has got to be

(Testimony of L. K. Siversen.)

done at such and such a time—

Q. Yes.

A. (Contg.)—why, I will do everything that I know to get the job done in such and such a time.

Q. Exactly. But if I should come down and say to you, you have got to finish this work so as to have it out in a certain time, you would not pay any attention to me, if my request involved an increased value of the work.

Mr. FRANK.—What has your request got to do with it? I can't understand that; you are no party to the transaction.

Mr. McCLANAHAN.—Object to the question if you want to. [977—889]

Mr. FRANK.—That is my objection; it is immaterial. What you would request has nothing to do with this case.

Mr. McCLANAHAN.—Q. Do you understand my question?

A. Yes. You mean if you personally should come down and—

Q. (Intg.) Ask you to increase the cost of the job, you would not do it, increase the cost of the job?

A. That is not the way you stated it at first.

Q. Well, that is what I mean, make a rush job of a job that was not a rush job—you would not do it?

A. If I knew who you were and knew you had anything to do with the ship, and if you came down and wanted the job done quicker, I would not take any steps before I went and consulted my superior, and say, “Mr. So-and-So has come down to the shop

(Testimony of L. K. Siversen.)

and he says that he wants the job rushed right through, what am I going to do with it."

Q. That is what I thought. You would not act without authority from the office, would you?

A. No, not in that respect.

Q. Now, you spoke of the ship being detained in the drydock longer than had been anticipated. What was the meaning of that evidence? Did you have any idea how long she was going to be in drydock under the original specifications?

A. I think that they figured on getting the ship off dock in four days.

Q. That is, they figured on that under the original specifications?

A. They figured on that from the amount of work that they thought was to be done.

Q. Under the original specifications?

A. Well, whether it was under the specifications or from anything else I don't know. In fact, I will tell you that, as far as the outside work that was [978—890] done, outside the ship, is concerned, that I did not have directly charge of.

Q. You have been giving testimony, Mr. Siversen, about the drydocking of the ship.

A. I have, inasmuch as I know that what detained the ship on the dock was the boring of the shaft—

Q. Detained it from what?

A. Well, it was longer than they anticipated.

Q. Who anticipated—longer than who anticipated?

A. Well, I could not tell you just who said that

(Testimony of L. K. Siverson.)

they intended to put the ship on the dock four days, but that is what I understood. I don't remember now who said it.

Q. You understood from somebody that the ship was going to be on the dock four days?

A. About four days.

Q. Under the work as originally contemplated?

A. Yes, the work that they intended to do, the removing of the wheel and fitting a new one, and removing the stern bearing—

Q. And painting the ship?

A. And painting the ship. I don't remember whether they intended to do anything to the rudder or not. I don't remember that.

Q. But you know that there was in the contemplation of somebody a certain time anticipated for the docking of the ship and that that time was extended necessarily by the reboring of the gudgeons. Is that your evidence?

A. I mean to say that the ship was on the dock longer than they wanted her to be, longer than they expected her to be, and I know that they were anxious to get the ship off the dock.

Q. Well, that is the case of every ship that comes to your yard, is it not, they want the job finished as soon as possible so as to have their ship back?
[979—891] A. Well, I mean the management.

Q. What management?

A. The management of the United Engineering Works, because the "Hilonian" was not finished when she got off the dock.

(Testimony of L. K. Siversen.)

Q. I see; the management was in a hurry for the ship to get off the dock?

A. Yes, because they wanted the dock.

Q. The management of the United Engineering Works was in a hurry to finish the job too, was it not?

A. They wanted to finish the job on the "Hilonian," yes.

Q. You do not remember the men that worked in your department on the "Hilonian" at that time, do you?

A. No, sir.

Q. I think you said something about the removal of the plates in the shaft-alley on your direct examination. Do you remember that, or am I mistaken?

A. Yes, there was plates in the shaft-alley removed in order to remove that additional piece of shafting that had to go to the shop.

Q. Are you sure of that? A. Yes, positive.

Q. You mean plates were lifted up?

A. I mean that plates were taken out of the side of the shaft-alley.

Q. So as to enable you to get the shafting out?

A. Yes, sir.

Q. And those plates were replaced, of course?

A. Yes, sir.

Q. Do you remember what work was done on the piston rods?

A. The piston rods were trued up, put in the lathe and trued up.

Q. All of them, or only the intermediate?

(Testimony of L. K. Siverson.)

A. Well, that I don't remember.

Q. Don't you know there was not anything done on the high and low pressure piston rods?

A. I don't remember; I won't say. [980—892]

Q. Don't you remember that the intermediate was trued up?

A. I remember there was some piston rods trued up but I don't remember which was trued up.

Q. You remember that there was work done on the condenser tube heads, do you not?

A. That I don't remember.

Q. You don't remember that?

A. I don't remember.

Q. Do you remember that none of the cylinders were removed from the ship—I withdraw that question. Do you remember that none of the cylinders were taken to the shop?

A. Well, there was none of the main engine cylinders taken to the shop, as far as I can remember.

Q. What was done with the cylinders? They were put on the dock, were they not?

A. The cylinders?

Q. Were they taken out of the ship at all?

A. Not that I can remember.

Q. Not taken out of the ship at all?

A. Not that I can remember.

Q. Of course there was this balance cylinder, this small affair that was brought from the shop.

A. That was a new one; that was designed by the shop. Of course that necessitated a new low pressure valve stem and the boring of the facing out on

(Testimony of L. K. Siversen.)

the shop for it.

Q. You know that the reversing shaft was never removed to the shop, don't you?

A. I don't remember that.

Q. Do you remember any work done on the reversing shaft? A. No, I don't remember.

Q. I call your attention to the high pressure eccentric rods; do you remember any work being done on those? A. On the rods?

Q. On the high pressure eccentric rods.

A. No, I don't remember anything being done to the rods. [981—893]

Q. Now, on your direct examination you spoke of certain bolts being used for the gear casing; do you remember that? A. Yes.

Q. You identified certain bolts on certain stock cards? A. Yes, sir.

Q. Well, now, Mr. Siversen, that gear casing, after it was bolted up was riveted, was it not?

A. Yes, sir.

Q. Were not the bolts then taken out and then taken to the shop?

A. Bolts like that, you know, their threads are stripped and they are thrown over; sometimes they are cut off. They are only little stove bolts and it would cost more to try to pick up those bolts and save them than the bolts would be worth if they were saved.

Q. The bolts, however, were necessary—

A. (Intg.) To bolt it up.

Q. To bolt the thing up preparatory to riveting?

(Testimony of L. K. Siversen.)

A. Yes, sir.

Q. Then they were taken out?

A. Yes, sir.

Q. You say they are worthless and thrown away; is that the idea?

A. A little bolt like that, I do not think they would ever be used again.

Q. Cast into the scrap pile? A. Yes, sir.

Q. Now, I want to call your attention to your testimony given with reference to the time-cards of the men working in your department on the ship. Do you remember you said that you checked up those time-cards with the timekeeper the next morning?

A. Yes, sir.

Q. What did you mean by checking them up?

A. I mean that as soon as I had the men placed at the work and I possibly could spare a little while away from the work down on the ship I would go up to the office of the timekeeper, and he would have all the cards of my men that had worked the previous day stacked up and we would go over the cards, and one man would [982—894] have his number of hours right and the job number perhaps right, and he would have the name wrong, or *vice versa*, he would have the name wrong and the number of hours wrong, or the job number wrong, and I would tell the timekeeper that that man worked on so and so.

Q. Do you pretend to say now that you could the next day tell the correct number of hours that each man under you in your department was working on a particular job number? A. Yes, sir.

(Testimony of L. K. Siversen.)

Q. How many hours constituted a day's work at that time?

A. Well, that I don't remember whether it was $8\frac{1}{2}$ or $8\frac{3}{4}$, but our working day at that time was in a decreasing scale; it was on account of an agreement between the Metal Trades Association, I understand, and the Iron Trades Council.

Q. Now, assuming that the working day was $8\frac{1}{2}$ hours at that time. A. Yes, sir.

Q. How many hours were the men paid for working on the ship in your department?

A. The men was paid for 9 hours, I think, at that time.

Q. That is something you ought to remember, Mr. Siversen. A. Well, I don't remember.

Q. The time-cards show the number of hours paid for, do they not? A. No, sir.

Q. What did the time-cards show?

A. The time-cards showed—there was a system in vogue by which the men worked nine hours and got 10 hours' pay. Now, this system became changed, inasmuch as the day began to decrease and as the day decreased this bonus hour as it were, if I don't remember wrong, decreased too. But this system [983—895] that they had of putting nine hours on the card, I think was in vogue until the men got the eight hours. I think the orders were that the men were to put nine hours on the card for a full day when the day constituted $8\frac{3}{4}$, and when it constituted $8\frac{1}{2}$ as well. I think, if I don't remember wrong, that it was the custom to put nine hours on the card just the same.

(Testimony of L. K. Siversen.)

Q That was the custom in your department on the ship?

A. It was the custom in the whole yard, as far as I remember.

Q. Was there any different custom that applied to work on the ship as distinguished from work in the yard or in the shop?

A. There was this, that they paid a certain amount more, whether it was half an hour more or three-quarters of an hour more, on the ship for the same length of time that they worked in the shop.

Q. That is, if the straight time pay in the shop was 9 hours, on the ship it would be $9\frac{1}{2}$ hours or $9\frac{3}{4}$ hours? A. Yes, sir.

Q. And if the working day under the Trade Metal Union contract was $8\frac{1}{2}$ hours at that time the men in making out their time-cards would pay no attention to that but would put down the hours that they were paid for; is that it?

A. No, not exactly to put down the hours that they was paid for.

Q. Well, I want to know what they did put down?

A. Well, they put down the nine hours.

Q. We are talking about the ship. If the straight time in the shop for which the men were paid was nine hours, on the ship it would be nine and a half or nine and three-quarters hours? A. Yes, sir.

Q. There was a bonus there?

A. Yes, sir. [984—896]

Q. What did they put down on their cards when working on the ship—the nine and a half or nine and

(Testimony of L. K. Siversen.)

three-quarters hours?

A. The nine hours just the same. The way they distinguish between the shop men in getting that bonus and the ship men getting that bonus is by the different cards they use. You know that when a man is working on the ship, and has a yellow card, he is entitled to that bonus; whereas, if a man is working in the shop, he uses a white card and is not entitled to that bonus.

Q. So, then, the cards used on the ship contained the nine hours which was allowed for work in the yard, but the bonus was allowed to the man because of the color of the card and because he was working therefore on the ship; is that it?

A. When you say that the card contained the nine hours, I am not so very positive about that, but I think that the custom still remained to put nine hours on the card, but they got the bonus hour.

Q. In addition to that?

A. In addition, no matter what they put on the card. If it was a full day, for instance, a man had worked eight and three-quarters hours or eight and a half hours, whichever it was, I don't remember, but they put nine hours on the card.

Q. And then when it got into the office the time-keeper would add to it the bonus?

A. The bonus, if it was a yellow card; if it was a white card, no bonus.

Q. So that they did not put on their cards the actual time worked but instead they put down the actual hours for which they received pay. A. No.

(Testimony of L. K. Siverson.)

Mr. FRANK.—He did not say that at all.

Mr. McCLANAHAN.—Let the witness say what it was. [985—897]

The WITNESS.—That is not what I mean at all.

Mr. McCLANAHAN.—Q. Well, I think it is, Mr. Siverson. I have not expressed myself clearly. Let us settle this first. They did not put on the cards the number of hours actual work? A. No, sir.

Q. Instead, they put on the nine hours which is the regular day, the number of hours in the day for which they received pay, plus the bonus?

A. No, I would not say that that is the reason why they put down the nine hours. I don't know what the reason was; presumably because of some change in the bookkeeping that they did not wish to do until the final eight hours came; maybe that was it. But it was usual to put down nine hours; when we had the nine hour day the man put down nine hours and if it was a yellow card he got paid for ten.

Q. He put down the nine hours.

A. That is when we were working the nine hour day.

Q. Although he only worked eight and a half hours—

A. If that was the time during that period.

Q. That period. A. Yes.

Q. Now, if he was working, and I refer to the man, if the man was working on say three job numbers on the ship in one day. A. Yes, sir.

Q. And he worked on one of the jobs, that is, his card would show he worked on one of the jobs for

(Testimony of L. K. Siversen.)

say one hour, and his card would show that he worked on another job for two hours, and his card would show that he worked on the third job for six hours, that would make nine hours, you see. A. Yes, sir.

[986—898]

Q. One hour on the first job number, two hours on the second, and six hours on the third.

A. Yes, sir.

Q. Could you tell from that card where the one-half hour was absorbed if the working day was only eight and a half hours at that time? What job number absorbed a half hour?

A. That half hour would usually go to the place that they worked longest.

Q. Usually go to the place that they worked longest? A. Yes, sir.

Q. So that in the case that I have put to you, the half hour would go on the six hour job?

A. Yes, sir.

Q. So that on the cards calling for six hours the men would actually have worked on them for five and a half hours?

A. Well, that would be usually the way. There was no fast-and-hard rule for that.

Q. It was left to the man, was it, who made out the card?

A. It was left to the judgment of the man.

Q. Who made out the card?

A. Yes; that is, providing the man knew.

Q. Knew what?

A. What was the number of the jobs he was work-

(Testimony of L. K. Siversen.)

ing on. You remember I said that oftentimes I had to revise the numbers that were put on the cards.

Q. That would make it very difficult for you to check up the time, would it not, the actual time worked on each particular job number?

A. I do not see that it would make it difficult.

Q. You would assume when you came across a card such as I have placed before you he worked five and a half hours on that job, on that last job—the six hour job? [987—899]

A. Yes. I cannot say that I was ever so particular as all that about that half hour, that I would sit down and have scruples over whether I should take 10 or 15 minutes on one job and some more on another. I was not so particular about the making up of a card as all that. I knew that the men had been working a whole day and I knew that the man was entitled to his pay, and I knew that the man had been working. I would not say that I knew that the man was working so many minutes on this job and so many minutes on the other job and so many more minutes on the third job; that would be impossible. But I would know, for instance, I had a man working on a certain piece of work and he got finished, and he came and asked me for another job, why, if it was 10 o'clock or around that, I would put down that time from 10 o'clock, that he started at 10 o'clock.

Q. You would put it down?

A. Well, if the man had not done it right himself.

Q. You also spoke of Mr. Putzar as also keeping time. What do you mean by that?

(Testimony of L. K. Siverson.)

A. I meant—I did not say that Mr. Putzar was keeping the time.

Q. What do you mean?

A. I said that Mr. Putzar was introduced to me as the company's representative and the man who was going to keep time, but Mr. Putzar did not confer with me on the time.

Q. Did you ever see him keeping time?

A. Mr. Putzar—you mean if he went around the men, or in which manner do you mean?

Q. I don't know. I am trying to find out whether you know anything about his timekeeping.

A. I don't know in which method he kept the time.

Q. Do you know that he did keep the time?

A. I don't know. I [988—900] know that he was counting the men every day.

Q. He was counting the men.

A. He was counting the men over every day.

Q. Is that all you know about keeping his time?

A. I did not confer with Mr. Putzar as to the manner in which he kept the time, so I don't know.

Q. Did he confer with anybody else in your presence?

A. Not in my line. You know I did not have anything to do with the office. I understood that he was up in the office every day and signed for certain time.

Mr. FRANK.—What do you propose to do—to repudiate your own timekeeper, Mr. McClanahan?

Mr. McCLANAHAN.—What is this, an objection, or what?

Mr. FRANK.—Well, it is an objection. I am

(Testimony of L. K. Siversen.)

asking if you intend to repudiate this timekeeper.

Mr. McCLANAHAN.—Do you mean to criticise my cross-examination of the man on the question of Mr. Putzar's timekeeping?

Mr. FRANK.—I do. It is incompetent and immaterial.

Mr. McCLANAHAN.—You brought it out yourself.

Mr. FRANK.—I do not think so. This method of examination is improper and immaterial.

Mr. McCLANAHAN.—Make your objection.

Mr. FRANK.—I am doing it.

(Thereupon the witness was excused until tomorrow morning, Friday, September 15th, 1911, at 10 A. M., and a recess was taken until 2 P. M.)
[989—901]

AFTERNOON SESSION.

**[Testimony of William S. Taylor, for Libelant
(Recalled).]**

WILLIAM S. TAYLOR, cross-examination resumed:

Mr. McCLANAHAN.—Q. Mr. Taylor, did you ever hear any talk of work on the windlass?

A. No, sir.

Q. Never heard any talk on that? A. No, sir.

Q. Where were these channel supports placed that you spoke of in your testimony? Under the break of the forecastle-head? A. Yes, sir.

Q. There were two of them, were there?

A. There were two of them, to my knowledge. There were more, I think.

Q. But you know there were two?

(Testimony of William S. Taylor.)

A. I know there were two.

Q. Did you have anything to do with the testing of the bulkheads, of the fore and aft peak tanks?

A. Yes, sir.

Q. I hand you Respondents' Siversen Exhibit "A," and call your attention to the third article of the specifications, and ask you if that work was done.

Mr. FRANK.—We make the same objection to that as we did to the use of that this morning.

Mr. McCLANAHAN.—Q. Was that work done according to the specifications there, Mr. Taylor?

A. Yes, sir.

Q. It was? A. Yes, sir.

Q. When that work was done, did you have the specifications before you?

A. I cannot recollect of these specifications at all.

Q. You cannot recollect what?

A. Of these specifications. I cannot recollect of having specifications. [990—902]

Q. Mr. Taylor, don't you remember that these two channel supports under the forecastle-head were ordered put there by Mr. Klitgard and not by Mr. Putzar?

A. I remember that Captain Saunders was instrumental in having them put there, after conference with Mr. Christy in regard to the matter.

Q. And you don't remember that Klitgard had anything to do with it?

A. The captain of the ship had in a way. He showed up that work—

Q. Please answer my question. You do not remember that Klitgard had anything to do with it?

(Testimony of William S. Taylor.)

A. No, sir, I don't remember that he did.

Q. But you do remember that Putzar had something to do with it? A. No, sir.

Q. You said so in your redirect examination or in your previous examination.

A. Not in regard to them stanchions.

Q. You said on your direct examination, at page 845: "Well, I will take a case in point, the repairs to the stanchions. As I recollect, the forward deck had settled and the stanchions were all doubled up. They were round stanchions at that time, the old original stanchions, and showed evidence of weakness, and we were advised by Captain Saunders and Engineer Putzar after looking over the job, that the best thing to do in that case would be to put in channel iron stanchions, double in cases." That is the same work, is it?

A. That is the same work, but I am positive of Saunders. I am not so positive of Putzar. In an indirect way he was looking over the work, and he may have been there, but I considered Saunders at that time the main party in taking advice from.
[991—903]

Q. Did you receive from Mr. Christy or anyone else connected with the United Engineering Works any direction to follow the orders of any other representative of the Matson Navigation Company except Mr. Putzar?

A. I never got any orders to work by Mr. Putzar at all.

Q. I will refer you to your testimony on page 862

(Testimony of William S. Taylor.)

of the record as follows—

Mr. FRANK.—What is this—direct or cross-examination?

Mr. McCLANAHAN.—This is cross-examination.

Q. “Who did you get your orders from?”

A. Mr. Christy.

Q. When did you commence to work on the ship?

A. I can’t remember.

Q. Well, I show you a card dated August 25th, ‘A455’; that refreshes your recollection to some extent that you were working on August 25th on the ship? A. Yes, sir.

Q. You had received orders from Mr. Christy to work under Mr. Putzar’s authority?

A. Yes, at that time, yes.

Q. And not under Mr. Klitgard?

A. No, Klitgard had not very much to say in the matter; only Putzar seemed to be the man that we had to go by at that time.” A. Yes, sir.

Q. Don’t you remember making that statement?

A. I did. I had previously received orders from Mr. Christy to go ahead with the work. I had in a way to work in conjunction with Mr. Putzar.

Q. This statement of yours is that you received from Mr. Christy orders to work under Mr. Putzar’s authority?

A. No, sir, I was mistaken then if I said so.

Q. Did you receive orders from Mr. Christy to work under anybody’s authority connected with the Matson Navigation Company? [992—904]

A. No, sir.

(Testimony of William S. Taylor.)

Q. If Mr. Putzar or Mr. Klitgard or Captain Saunders asked you to do any particular work, would you do it, or would you refer it to somebody in the United Engineering Works?

A. I would. I would refer it to Mr. Christy.

Q. All work that was done under your supervision was done then with the sanction and consent of both Mr. Christy and the representatives of the Matson Navigation Company? A. Yes, sir.

Redirect Examination.

Mr. FRANK.—Q. Mr. Taylor, you were shown this Exhibit “A” and asked about 13; did you read over 13 fully before you answered?

A. I think I did; yes.

Q. Read it over once more. A. Yes, sir.

Q. Do you remember what you were asked concerning that? A. After we had the water in the tank—

Q. What were you asked on cross-examination respecting that—do you remember?

A. If that work was done; if I knew that that work was done.

Q. No, that is not the question that was asked you. You were asked if you knew if it was done according to the specifications?

A. Yes, sir, that was the question that was asked.

Q. Was it done according to the specifications?

A. It was, and a great deal more than the specifications covered.

Q. When the work was first pointed out to you to be done, was all the work to be done under that section 13 included that you did under that head?

(Testimony of William S. Taylor.)

A. No, sir.

Q. Why did you do so much more work under that head No. 13, [993—905] from that which was originally pointed out as the work to be done under that?

A. In the forepeak after it was filled with water and the bulkhead examined it showed evidence of leakage around the ends of the stringers where they connect to the bulkhead, and I informed Mr. Christy of that fact and they had a conference.

Q. Who had a conference?

A. Mr. Christy and Captain Saunders, Mr. Klitgard, Mr. Putzar and I think possibly the Captain of the ship, and Mr. Clark of the United Engineering Works.

Q. A conference about this condition?

A. About this condition.

Q. Because it was different from what it was represented to be when you started in on the work?

Mr. McCLANAHAN.—That is objected to as suggestive and leading.

A. Not different; no.

Mr. FRANK.—Q. Why?

A. These leaks—there was nothing specified in regard to the leaks in the specifications.

Q. Go on. A. It calls for them being tested.

Q. What being tested?

A. The forepeak and the afterpeak.

Q. And when you tested it you found this condition? A. Yes, sir.

Q. Now, what did that require after the confer-

(Testimony of William S. Taylor.)

ence? What did they decide?

A. They decided to cut out the loose rivets and make up shoes and several other jobs. I don't recollect all that was done to that bulkhead.

Q. What is the usual method of removing those rivets? A. Cutting them out and renewing them.
[994—906]

Q. What was the object of the consultation?

A. To get orders to go ahead with the work, not being specified to do that.

Q. What was the result of the conference, if you remember?

A. They were called together there and the work was looked over the same as if this is the bulkhead here (illustrating) and the water is on top, and you find leaks over here and elsewhere. The consultation was in regard to the best method of remedying it.

Q. Of remedying it? A. Yes, sir.

Q. What did you try to do?

A. As I stated, we cut out loose rivets, and where these stringers connect to the bulkhead—bilge stringers. I think there were two on each side which showed evidence of leakage, but the worst leak was on the port side, the lower of the two.

Q. Well, what did you do? That is what I am asking you. What did you do?

A. Well, we cut out the loose rivets and renewed and made up new fittings, angle-iron shoes, I think, around the bilge stringers, where it connected to the bulkhead.

Q. Was there anything else that you did?

(Testimony of William S. Taylor.)

A. We overhauled all the caulking, made up any leaky parts, leaky rivets, and put it in first-class shape.

Q. You have spoken of these angle-iron shoes. Just describe them a little more particularly, what is necessary to be done.

A. Well, of course I am hazy—there are different methods of procedure in connection with a bulkhead with these bilge stringers. Sometimes they are run through the bulkhead and sometimes not. I think the method of these is that they run through the bulkhead and a shoe worked around the outside of it, or it may have been a plate, and we worked a shoe inside, which [995—907] is a more efficient job. ‘

Q. Is it a very extensive job?

A. A nasty job, a hard job. We have got to work the angle-iron, get it worked by the blacksmith. It does entail considerable work. It is a hard place to get at and to make good if it is not properly made at the start at the beginning of the building of the vessel, if they do not go the proper way about it.

Q. You said on your former cross-examination, that after you had begun work there were times when the representatives of the owner would change their minds as to the manner in which it was to be done?

A. Yes, sir.

Q. And then it would have to be torn out?

A. Yes, sir.

Q. And done over again in a proper way?

Mr. McCLANAHAN.—I object to that as not proper redirect examination.

(Testimony of William S. Taylor.)

A. Yes, sir.

Recross-examination.

Mr. McCLANAHAN.—Q. Mr. Taylor, the test of these tanks, as I understand it, showed a leakage where the stringers were connected with the bulk-head; is that correct? A. Yes, sir.

Q. And the object of the angle-iron shoes was to make the tank tight, was it not?

A. Yes, and strengthen it.

Q. Tight and strong?

A. Tight and strengthen it.

Q. It was a good way to do the job?

A. The best way I know.

Q. The tanks received two coats of cement wash, didn't they? A. Yes, sir.

Q. And they were cleaned out for a final test?

A. Yes, sir.

Q. And tested? A. Yes, sir. [996—908]

Q. The loose and leaky rivets were all removed?

A. Yes, sir.

Q. And new ones replaced them? A. Yes, sir.

Q. Please tell me what other work than that was done to those tanks.

A. That one that I have been talking of for the forepeak tank.

Q. I do not care which one you were talking of.

A. The after-peak tank was filled up under the same method, filled up with water, and we found that the water when they got a head on it rose up, and filled up all the way round the cold-storage room which was built in the between decks. You had to

(Testimony of William S. Taylor.)

walk around there, and the way the vessel was settled, it was settled over the stern, I guess there was about a foot of water over the tank aft, and we could not discover where it leaked. The Chief Engineer, Mr. Klitgard thought it leaked from the under side of the deck in the corners, but we made that up that we could discover no water from there. They emptied the tank. We went in, Mr. Klitgard, Mr. Putzar and Mr. Hurley I think were there, and looked over the tank in the inside; we discovered, in putting that cold-storage into the vessel, that the bolts securing the coamings of that cold-storage had not been grummeted up to insure tightness. We also discovered around that deck lots of holes without anything, that is, holes in the iron deck that were not filled up. After making due reports to the office to that effect we were ordered to make these faults good. Also in the corners, we were to take extra precautions, pumping putty where we thought necessary and otherwise to insure tightness.

Q. Anything else done? A. Caulking.

Q. The seams were caulked? [997—909]

A. The seams and around the deck, and bulkhead and elsewhere where we thought it necessary.

Q. And all this work you have been speaking of now, was done for the purpose of making the tank tight, was it not? A. Yes, sir.

Q. Anything else done?

A. The specifications were carried out, after that work was done, cleaning and washing *et cetera*.

Q. By these specifications you are referring to

(Testimony of William S. Taylor.)

specification 13 that was handed you?

A. As I recollect now, I don't remember seeing them before.

Q. Who was Mr. Clark that you referred to in your examination?

A. A draughtsman; a hull designer of the United Engineering Works.

Q. What work do you refer to as that which had to be done over because of a change of mind on the part of one of the representatives of the Matson Navigation Company?

A. Well, yesterday evening I was referred to two cards of similar nature on the same date for material in the engine-room.

Mr. FRANK.—Q. That is during your examination here? A. Yes, sir.

Mr. McCLANAHAN.—Q. You mean the checkered plate cards?

A. Yes, sir, a similar size and on a similar date. Thinking the matter over—I could not very well see why it should be so—but on thinking the matter over I know of a reason for it and why it occurs frequently in the procedure of that work.

Q. Are you now answering my question? I do not want to interrupt you if you are.

Mr. FRANK.—That is what he is doing.
[998—910]

A. I am trying to explain the reasons—what was it you said?

Mr. McCLANAHAN.—Q. I wanted to know what work you referred to as that which had to be done

(Testimony of William S. Taylor.)

over because of the change of mind on the part of a representative of the Matson Navigation Company? A. That is what I am coming to.

Q. All right, I will be patient.

A. We began the job and were ordered to do certain work; the pipe-fitters were ordered to do certain work; the machinists were ordered to do certain work. I may get my work done ahead of the machinists. In carrying out their work the pipe-fitter or machinist may conflict with my work and I would have to tear it out again.

Q. Is that your answer to the question?

A. Yes, sir.

Q. Cannot you be a little more specific and tell me the precise work that you referred to as having to be done over because of a change of mind on the part of a representative of the Matson Navigation Company? A. No, sir, I don't recollect of any.

Q. You don't recollect of any specific work?

A. No, sir.

Q. How are you enabled to testify that there was such work? A. It occurs daily.

Q. In all ships? A. In all ships.

Q. Then, you are not referring specially to the "Hilonian" job? A. No, sir.

Q. Does that occur, this tearing up of work after it has once been done, and redoing the work—does that occur when you are working under a contract for the work to be done on the ship?

A. I am not familiar enough in knowing about contracts. I don't know whether a job is contract

(Testimony of William S. Taylor.)

or otherwise. I am not informed. [999—911]

Further Redirect Examination.

Mr. FRANK.—Q. Mr. Taylor, when you caulk seams, how is the tank made tight?

A. It shows evidence of leaking where the two plates lap.

Q. What do you do to make it tight?

A. Caulk it with a tool.

Q. And you see to it that the caulking is perfect so that the tank will be tight; is that right?

Mr. McCLANAHAN.—I object to the question as leading and suggestive.

A. If the water is in the tank you have got to make it tight.

Mr. FRANK.—Q. I am asking you the means by which you make it tight, when you caulk a seam, the means by which you make it tight?

A. You caulk it.

Q. You caulk it securely? A. Securely; yes.

Q. When you put in new rivets how do you make it tight where the rivets go in?

A. We test the rivets. After the new work is completed we fill it up with water to insure its tightness.

Q. Nothing else is required to make it tight with reference to those particulars? A. No, sir.

(An adjournment is here taken until to-morrow, Friday, September 15th, 1911, at 10 A. M.) [1000—912]

Friday, September 15th, 1911.

**[Testimony of L. K. Siversen, for Libelant
(Recalled—Cross-examination).]**

L. K. SIVERSEN, cross-examination resumed.

Mr. McCLANAHAN.—Q. Mr. Siversen, since yesterday I have read with interest and pleasure your testimony in this case, and there are just a few matters that I want to understand a little more clearly before dropping my cross-examination. At page 883 of your testimony the record shows, in answer to my question, you say that the air-pump bearing was bored out. You meant the air-pump barrel, did you not?

A. Why, of course. Excuse me. I did not say that it was bored out.

Q. I am just correcting the record; you say, "Now, that I am not positive of."

A. No, I don't remember, whether it was or was not.

Q. But it should be "barrel"?

A. It should be "barrel," of course.

Q. Now, I want to ask you, Mr. Siversen, if you remember distinctly about the work done on the condenser where the bolts were enlarged, the studs were enlarged? A. Yes, sir.

Q. Do you remember distinctly that work? Your testimony was to the effect that not only were additional studs added but some studs were enlarged.

A. Yes, sir.

Q. Do you remember distinctly that work?

A. Yes, sir.

(Testimony of L. K. Siversen.)

Q. Don't you remember that the studs which were enlarged were such as were made necessary by making the holes larger, because they found that when they took the studs out the holes rusted and they had to rethread and therefore they were made larger on that account; don't you remember that was the case?
[1001—913]

A. I want to correct that. I do not think that was the case, as far as I can remember. The studs were enlarged, the part of the stud that went into the condenser, the stud end of the bolt as it were was made a larger size than the part that goes through the flange, because we found that the hole was so close to the rib that we could not get the larger sized stud through the flange.

Q. So close to what?

A. To a rib of the casting, a reinforced rib in the casting; that we could not get the larger sized stud through this hole as the end would come so close to the rib.

Q. Well, this enlargement of those studs was not done for the purpose of adding strength of the job, was it?

A. Well, that I don't remember, whether it was for the purpose of increasing the strength, or whether it was because the holes were worn out in the condenser I could not say.

Q. You could not say.

A. I don't remember that distinctly.

Q. But the additional studs were put in for the purpose of strengthening, of course.

(Testimony of L. K. Siversen.)

A. Well, presumably.

Q. Now, you have spoken of the removal of plates in the shaft-alley. I think I got the wrong conception of what plates you meant. You did not mean any plates on the floor, but you meant plates in the bulkhead, did you not?

A. I mean plates in the bulkhead, in the side of the shaft-alley.

Q. Not on the floor? A. Not on the floor.

Q. Now, I called your attention to the balance cylinder work on the low pressure cylinder.

A. Yes, sir.

Q. You spoke of that work necessitating a new low pressure valve stem. Now, isn't it a fact that it did not necessitate a new low [1002—914] pressure valve stem but simply necessitated a lengthening of the then present valve stem?

A. Yes, that may be so; I am not positive about that. I do know, of course, that the balance cylinder could not be installed without having a part of the valve stem going up through into the cylinder, which it did not do before. But I will not say whether the valve stem was lengthened or a new one made; I don't remember distinctly.

Q. Now, let me direct your attention to your evidence on page 893 on that subject, where the question was:

“Q. Of course there was this balance cylinder, this small affair that was brought from the shop?

A. That was a new one; that was designed by the shop. Of course that necessitated a new low pres-

(Testimony of L. K. Siversen.)

sure valve stem and the boring of the facing out on the shop for it.” That is evidently a mistake of the reporter, is it not, Mr. Siversen? A. Yes, sir.

Q. Did you not mean this: “Of course that necessitated a new low pressure valve stem and the boring and facing for same on the ship for it”?

A. On the engine, on top of the steam chest.

Q. Isn’t that correct, “the boring and facing for same”?

A. Yes, sir.

Q. Boring and facing for same is what you meant on the ship as against “facing out”?

A. Well, facing for same—what same? You are alluding to a cylinder? Yes, that covers it.

Q. What covers it, Mr. Siversen?

A. It is “and facing.”

Q. The boring and facing for same on the ship.

A. Yes. But it should be on top of low pressure steam chest.

Q. That would be on the ship as distinguished from the shop? [1003—915] A. Yes, of course.

Q. That is the idea? A. Yes.

Q. Boring and facing for same on the ship.

A. Might I make an explanation?

Mr. FRANK.—Q. Certainly; get it clear.

A. The cylinder has a flange on the bottom. This flange has got to sit on top of the steam-chest. The steam-chest was not true, not being machined. There had to be a hole bored in the top of the steam-chest for the valve stem to pass up through into the cylinder. Where this flange in the cylinder sits on the steam-chest it necessarily had to be faced off

(Testimony of L. K. Siversen.)

square with the valve stem and a female was also made in the steam-chest.

Q. A female screw? A. No.

Q. A female.

A. A female is a recess in the metal.

Q. So facing out should have been facing off.

A. Yes.

Mr. McCLANAHAN.—Q. Now, as a last question I call your attention to your evidence, page 883 of the record, where, in answer to my question as to what else was done, you say: “The part that the air-pump sits on was also bored out.” Now, that air-pump sat on the condenser, didn’t it? Don’t you remember that?

A. I don’t recollect just how that air-pump was constructed, but I had reference at that time to the part that the air-pump barrel bolts on to; it also bolts on to the condenser. But perhaps I may be confused with some other job. Maybe that there is a casting on the condenser that comes out and provides for the barrel of this air-pump.

Q. The condenser, of course, was never out of the ship? A. No, sir.

Q. And if the air-pump sat on the condenser, that would be the [1004—916] bed-plate for the air-pump? A. For the air-pump, yes.

Q. That was never out of the ship?

A. The condenser was never out of the ship but I had in my mind a separate part that goes from the air-pump and bolts on to the condenser.

Q. But you are not clear on that?

(Testimony of L. K. Siversen.)

A. I am not positive on that.

Q. And you may be thinking of some other job.

A. Maybe. But at any rate, I remember now, which I did not yesterday, that that face that this barrel sits on, whether it was a separate piece or part of the condenser casting, that that face was trued up, filed up.

Q. How did they do that, on the ship?

A. On the ship.

Q. Did they rig up machinery? A. Filed up.

Q. By hand?

A. By hand; and trued up the face.

Q. What was the necessity for that?

A. In order to provide a perfect bearing surface between the barrel which had been turned in the lathe and the part that the barrel flange sits on.

Q. You remember that distinctly?

A. That I remember; yes.

Q. That is probably what you meant when you said that the part that the air-pump sits on was bored out.

A. I could not have said "bored out." If I did, I made a mistake. I must have necessarily faced that.

Q. That would be work done by hand on the ship?

A. If such is the case, that this support for the air-pump is part of the condenser casting.

Redirect Examination.

Mr. FRANK.—Q. While we are on that subject, Mr. Siversen, I understand that you are clear upon the subject that the barrel of [1005—917] the

(Testimony of L. K. Siversen.)

air-pump had to be removed from the ship and taken to the shop to be turned in the lathe.

A. Yes, sir.

Q. And that was because the face of the barrel was so rusty it could not be fitted as originally intended.

Mr. McCLANAHAN.—I object to that as suggestive and leading.

Mr. FRANK.—Q. I have a right to that, under the circumstances.

A. The faces of the air-pump barrel was not rusted—

Q. Well, what was it?

A. (Contg.) —as it was a brass barrel, if I don't remember wrong, but they were sprung.

Q. Sprung.

A. Not true. And as they insisted on a corrugated copper gasket as a joint between the faces the bore of the barrel would have to be perfectly true in order to make a tight job.

Q. In order to do that it was taken out of the vessel. A. Yes, sir.

Q. Right in that same connection, we will take up No. 1 of the specifications which were shown to you yesterday, in which, if I remember rightly, you said generally that that was done. Now, when you said that was done, did you mean to say that it was done in the manner specified in the specifications? Just see what No. 1 is.

A. (After examination.) No. I did not mean to say that. When I said that this job was done I

(Testimony of L. K. Siversen.)

meant of course that the purpose of the job was effected.

Q. But not in the manner called for?

A. This method of doing the work was not followed out.

Q. Well, the particular method in which it was followed out, whether or not that was a more expensive job than it would have been to have done it in the manner in which the specifications provided.

[1006—918]

Mr. McCLANAHAN.—I object to that as immaterial, irrelevant and incompetent.

A. It was much more expensive, of course.

Q. Now, at whose instance did you make that change, whether or not Klitgaard and Putzar authorized that changed method of doing that work?

A. Yes, sir.

Q. So that is the meaning, then, of your testimony on page 883 when you were asked concerning that specification and stated this work was done and more work was done to the air-pump than what it says there? A. Yes, sir.

Q. That is, it was not done in the manner provided for in the specifications?

A. It was done in a more thorough and more elaborate manner to make a first-class job.

Q. Had the specification been adhered to no part of that machinery would have been taken out of the ship, would it? A. No, sir.

Q. Now, if you will, just take the specification and proceed to follow it down with me with a view of

(Testimony of L. K. Siversen.)

ascertaining what work was and was not done according to the specifications. No. 2, I understood you to say, was not done, but a balance cylinder was made in the shop and placed as you have testified on the engine?

A. Yes. I don't remember of this thing being done, part 2. But I am not saying that the work was not done. I am just saying that I do not remember it being done.

Q. Don't you think you would remember it if it was done at all?

A. Well, I have been doing so many jobs of that kind, but I don't think it was done.

Q. Now, with respect to No. 4, read that over carefully and state [1007—919] whether or not that was done in the manner provided for in the specifications.

A. The work specified in No. 4 was done but not in the way it says here.

Q. Not the way it was provided for in the specifications? A. No, sir.

Q. In other words, the end was accomplished but not accomplished in the way in which the specifications called for it?

A. No. The steel plates that are mentioned here were so corroded that it was concluded that we could not make a job of it by using them and they were removed and the guides were planed off on the back and new and heavier steel plates were put on.

Q. How about the shoes?

(Testimony of L. K. Siversen.)

Mr. McCLANAHAN.—That is what he means, doesn't he?

Mr. FRANK.—No.

A. I mean plates on the guide.

Mr. McCLANAHAN.—Q. Are not those the shoes? A. No, sir.

Mr. FRANK.—Q. How about the shoes?

A. Well, the shoes were made new; new shoes cast and I think they were of a different pattern in some manner to what they had been before.

Q. That is the old shoes were not reconstructed, but new shoes— A. New shoes were made.

Q. Were these new shoes filled with any metal?

A. They were filled with metal, the part that goes up against the guide, and the part that goes up against the backing guide as well.

Q. That is challenge metal?

A. Challenge metal.

Q. As I understand you, all of these changes were made after [1008—920] consultation with Putzar and Klitgaard? A. Yes, sir.

Q. And at their instance and suggestion?

A. Yes, sir.

Q. The making of the balance cylinder referred to in the No. 2 specification, state whether or not that is an entirely different piece of work from what the specification called for.

A. Well, that is entirely different from what it calls for here, planing the valve and removing the seat, etc.

Q. Now, take No. 5; was that work done as called

(Testimony of L. K. Siversen.)

for in the specification?

A. It was not done as called for here, as far as I can remember.

Q. Now, what is your recollection as to the manner in which the purpose of that was effected, whether it was done in a different way?

A. The H. P. eccentric straps, I don't remember whether they were or were not remetaled, but I do remember that the sheaves were taken off the shaft and turned upon the lathe, and I suppose the straps were rebabbitted too, but that I would not say positively. But the low pressure eccentric strap, as I stated yesterday, I think it had those brass liners put into it, made in a semi-circular form, and pinned on the strap to hold them in position; and the sheaves were also removed and trued up, and the whole thing was fitted up in the shop; straps were fitted to the eccentric sheaves while they were in the shop, necessary shims and everything made for it, and then it was refitted aboard the boat.

Q. How about the top halves being pocketed and babbitted? Do you remember about that?

A. I can't say I remember whether there was any babbitt put in them or not. There was new bolts fitted to the sheaves. [1009—921]

Q. How was this job, the same job, or was it a different job from that which is provided for in the specifications?

A. Well, it was different, inasmuch as it was done in a different manner, a more thorough and expensive manner; as, if the straps had only been rebab-

(Testimony of L. K. Siversen.)

bitted, as is called for here, the straps would have to be just babbitted and put out and reduced; but in this case the sheaves were removed from the shaft and new studs were made for them, and they were clamped together and turned up true.

Q. Were they taken to the shop for that purpose?

A. Certainly. And the sheaves were first bored out and then the liners were fitted to them, and after the liners were fitted and made fast they had to be bored out again.

Q. It was an entirely different job from what the specification called for?

A. That was altogether different, of course. But of course it accomplished the purpose of having more metal in the strap.

Q. Now, look at No. 7. That, I understand, was not done at all. A. No, sir.

Q. In that way. An entirely different job was put on that.

A. Well, there was a patch put on the bed-plate, a bronze patch.

Q. That is an entirely different thing from what the specifications call for?

A. Yes; entirely different from putting a column in, of course.

Q. Now, take up No. 9. Have you examined it?

A. Yes, I have examined it.

Q. In your examination on page 885, this was what occurred:

“Q. Now, turn to No. 9; is it not so that No. 9 was done with the exception that the crank-shaft

(Testimony of L. K. Siversen.)

was not removed to the shop? [1010—922]

A. The work was all done with the exception of the removing of the crank-shaft and the boring of the bearings in place.

Q. That is your answer, is it?

A. But there was additional, other work.

Q. Yes, I understand.

A. But you are not asking about that.

Q. I am not asking about that. It was all done except the removing of the crank-shaft and the boring of the bearings in place? A. Yes, sir."

Now, I will ask you concerning that, whether or not what was done was done in the manner provided for in the specifications?

A. To answer as to the work that was done under the heading 9 of the specification, there is only one way to do it, and that is to dissect it, as there is several pieces of work under No. 9.

Q. All right.

A. "Strip crank-shafts and all reciprocating gear." That was done. "Remove crank-shaft from ship, by cutting bulkhead abaft engine," was not done. "Test shaft in lathe to representative's satisfaction and true up all main bearings in lathe," was not done. "File housings where worn and bed to same, new shells (these will be supplied by ship)"; that was done. The housing was filed up true and the new shells bedded, but where the shells came from I don't know. "After shells are properly bedded they are to be bored out in place in perfect alignment." That was not done in that man-

(Testimony of L. K. Siversen.)

ner. Instead of that the bearings were fitted in place, and a line was run through the bearings and check lines were run down from each cylinder; a circle was scribed on each bearing separately, and all the bearings were taken back to the shop and bored in the machine, and then they were taken back aboard the ship again and replaced. [1011—923]

Mr. McCLANAHAN.—Q. In order to keep the record straight, Mr. Siversen, you mean by “bearings” the shells—the shells of the bearings?

A. The shells.

Mr. FRANK.—Q. Whether or not that would have been necessary had the specifications been adhered to?

Mr. McCLANAHAN.—I object to the question on the ground that it is not specific enough, what was necessary.

Mr. FRANK.—Well, the witness will attend to that, if he understands it.

Mr. McCLANAHAN.—I can’t understand the question on account of its being indefinite, and I therefore object to it on that ground.

Mr. FRANK.—Q. Go on, Mr. Siversen.

A. You mean, if it was necessary to remove the bearings to the shop again?

Q. Yes.

A. The bearings had to be bored out, and whether the bearings were bored out in place or whether they were bored out in the shop, that is a matter that would be left to the judgment of whoever is the

(Testimony of L. K. Siversen.)

authority on the job.

Q. What do you mean by the authority on the job?

A. Well, I mean the authorities of the shop, of course.

Q. Well, go on.

A. But the same purpose was accomplished of boring out the bearings, which, of course, was necessary under all circumstances.

Q. But if it had been bored in place as the specification provides, it would not have been so expensive a job; that is, it would not have cost so much to carry out the job.

Mr. McCLANAHAN.—I object to that as immaterial.

A. That I would not say. I do not think it lessened the cost to remove the bearings to the shop by any means. [1012—924]

Mr. FRANK.—Q. I do not mean it lessened the cost. Did it increase the cost?

A. No, it would not.

Q. Well, go on.

A. "After shells are properly bedded they are to be bored out in place in perfect alignment." I have stated in which manner that was done. "Test lines must be run through cylinders to check the bar before boring each bearing (the size of each bearing to be taken from shaft)." That is covered by the explanation that I made. Test lines were run from the cylinders and down to the center line. "After boring is finished shaft will be scraped and bedded to a

(Testimony of L. K. Siversen.)

perfect bearing and all liners and parting pieces fitted and secured in place"; that was done. The shaft was raised and lowered six times, I think, in order to scrape the bearings to a perfect fit. "A Lloyd's steel shaft gauge must be supplied and marked for each bearing (a sketch will be provided if requested). The gauges will touch shaft at three points showing either vertical or side drift of shaft." Those gauges were made, but not steel gauges. Whether they are of a Lloyd's pattern or not I do not know. They were cast-iron gauges in two pieces.

Q. As to their being as elaborate or more elaborate or less elaborate than Lloyd's steel gauges, what have you to say about that?

A. Well, they are more elaborate and entail more work than any Lloyd's gauge that I have seen heretofore. But I do not mean to say that this was not a Lloyd's gauge, because I do not know.

Q. Go on.

A. "The line shafting will be trued up to crank-shaft and tail-shaft and all spring bearings raised to their proper places." As regarding that item, there was a lot of work done. There was, as I stated yesterday, the thrust-shaft and the [1013—925] line shafting immediately behind the thrust-shaft was so badly corroded on the flanges as to make it impossible to tell when the shaft was in line, and when these flanges are badly corroded you do not get a true bearing between the faces of the two couplings, and it has a tendency also to shear off the

(Testimony of L. K. Siversen.)

coupling bolts. That is two reasons why it was decided to send those shafts to the shop.

Q. By whom? A. And have them faced off.

Q. Decided by whom?

A. Of the two shafts the thrust-shaft was supposed to go to the shop to have the collars trued up.

Q. And the other shaft not?

A. But the other shaft was not supposed to go to the shop, but it was ordered so by Mr. Putzar and Mr. Klitgaard.

Q. What was the result?

A. The thrust-shaft and the other length of shafting as well were faced off on the coupling. This shortened up the whole length of shafting, made the total length of shafting shorter a certain amount, the amount that was faced up; this being the case it pulled the whole shaft from the line tube and right up to the engine-head, and the line shafting from being worn where it rested in the bearings, there was naturally shoulders worn on each section of the shaft, on the place where it rested in the bearings; when this shaft was pulled ahead these shoulders came up into the bearings, with the bearings in the former position, original position; that necessitated shifting the bearings ahead a certain amount, and that necessitated in turn a slotting out of all of the holes of the pedestal on which the spring bearings rested.

Q. Well, now, is that all of that, Mr. Siversen?

A. Well, yes. [1014—926]

Q. Was that extra work that came up by reason of that condition authorized as the other was, by Put-

(Testimony of L. K. Siversen.)

zar and Klitgaard?

A. You mean the extra work of moving the bearings ahead, etc.?

Q. Yes.

A. That work was necessitated by the facing off of the couplings.

Q. Would that be an ordinary result in trueing up a shaft?

A. It would be an ordinary result of facing off a certain amount of the couplings of any old shaft; if the shaft was a new shaft, however, there would be no shoulders on it, and the shaft could slip right through the bearings.

Q. But what I was trying to get at was, would that be an ordinary result of trueing up a shaft, what is comprised in trueing up a shaft, whether that is comprised in trueing up a shaft, or not? What is meant by trueing up a shaft?

A. By trueing up a shaft, as I understand it, is generally where the shaft is not round, or otherwise that the shaft, the center line of which is sprung; but that was not the case with this line shaft; it was the coupling that was corroded on the face.

Q. So that would not be included in the ordinary work of trueing up the shaft but was the result of the special condition of this shaft? A. Yes, sir.

Q. That is what I am trying to get at.

A. "Should spring bearings require remetaling a separate price will be allowed for each"—well, of course, I don't know anything about the price or anything of that sort, but I do know that the spring

(Testimony of L. K. Siversen.)

bearings were remetaled; two spring bearings were first decided to be remetaled and the others were dressed up, and it was decided that they were to go back, and it was later on decided to remetal them [1015—927] all, as there was very little metal left; in fact, the metal was down to the cast iron. Now, where this line shafting rests in the bearing, the shafting and the bearings had worn to corrugations, and when it was decided to remetal the bearings, of course that meant that the bearings would be bored out to the size of the shaft; the bearing being bored out would be straight, would have a straight surface, and the shaft being corrugated could not lay in a straight surface; the shaft had to be filed up straight and trued also; so the shafts were all filed up straight and true where they rested in the bearings.

Q. That was double work that you referred to the other day that you had prepared the bearings to receive the shaft and afterwards they changed their mind about that and had them remetaled?

A. That is only as regards those three bearings, but not as regards the filing of the shaft. Nothing was done to the filing of the shaft before it was decided to remetal the bearings.

Q. But, at any rate, the filing of the shaft would not have been necessary if the extra bearings had not been remetaled?

A. If the bearings had not been remetaled, any of them, no matter whether it was one or all, the shaft would have to be filed where the bearing was remetaled.

(Testimony of L. K. Siversen.)

Q. Where it was remetaled? A. Yes, sir.

Q. Where it was not remetaled, it would not have to be?

A. No. Well, excuse me; that is, that depends upon how much metal was in the bearing and what was decided by the men in charge of that part of the work.

Q. By the men in charge, whom do you mean—the representatives of [1016—928] the ship?

A. Yes. “The ship will be docked and stern-bearing “rewooded while tail-shaft is drawn. Alignment of line shaft to be done after crank and tail jobs are finished”—the first part there, “The ship will be docked and stern-bearing rewooded while tail-shaft is drawn,” that was done, as far as I remember. “Alignment of line shaft to be done after crank and tail jobs are finished.”

Q. The crank-shaft and tail-shaft jobs.

A. Yes. That was also done. “Thrust-shaft to be removed from ship and bolted to crank-shaft while latter is in lathe and collars on thrust-shaft to be trued up.” The thrust-shaft was removed from the ship and the collars were trued up and the faces of the couplings, as I stated before, were also trued up, but they were not bolted to the crank-shaft, as the crank-shaft was not to the shop. “Thrust ring to be refitted after shafting is lined up.” The thrust rings, if I don’t remember wrongly, was all rebabbitted by reason of turning up the collars of the shaft which naturally made the thrust ring too thin; whether or not they were otherwise worn, I don’t

(Testimony of L. K. Siversen.)

remember, but I know they were rebabbitted and fitted to the thrust-shaft, of course.

Q. Well, is that work a part of refitting a thrust ring? How would you refit a thrust ring ordinarily?

A. Well, that is rather difficult to answer, as a thrust ring could be refitted in two ways. You may say that if a thrust ring got hot the metal would be grooved out, and you would say that a thrust ring was refitted if the ring was taken out and scraped up and new oil grooves cut in it and the metal cleared and all dressed up. But you also say that the thrust ring was refitted [1017—929] after being rebabbitted, when you put in new babbitt in it.

Q. But the babbitting is a special work; that would be specified, would it not?

A. It is generally specified to rebabbitt the thrust ring, if that is required.

Mr. McCLANAHAN.—Q. Let me again suggest, to make the record clear, Mr. Siversen, when you speak of thrust rings you mean thrust collars?

A. I mean the thrust shoes, that is the real name for them.

Q. Rings, collars and horseshoes are all the same, aren't they? A. Yes, sir.

Mr. FRANK.—He is taking it as it is in the specifications.

A. Well, those names are general; one person uses one name and another person uses another name; what we most generally use is thrust shoes.

Mr. McCLANAHAN.—Q. That is because they look like a horseshoe?

(Testimony of L. K. Siversen.)

A. Yes, sir. "New wheel to be fitted"—

Mr. FRANK.—Q. (Intg.) One moment before you leave that. How about the stuffing-box and the thrust-box; was anything done with that?

A. Oh, yes; there was new stuffing-boxes ordered to be put in by Mr. Putzar; that is something altogether different from what was there before. In fact, there was nothing on to hold the liquid in place, as it were; the thrust-box contains a certain amount of oil and water, and these stuffing-boxes on the thrust-shaft were ordered put in by Mr. Putzar; and it was a very difficult job as it was a very hard place to work, very close. The patterns for the casting were made after the shaft was down in place; [1018—930] the thrust-box was also refastened, I mean all new bolts made to go down through—I referred to that yesterday. I think that there were all new bolts made to go down through the thrust-box and through the stools to hold the thrust-box in position.

Q. None of which was a part of refitting thrust rings?

A. No. "New wheel to be fitted to the satisfaction of owners representative." I think they got that wheel from some other shop. I remember the plates and hub came over on a barge, and when they tried this wheel on the shaft the taper was not right, and, if I am not mistaken, the wheel was rebored.

Q. Would that be an ordinary part of the work of fitting a wheel to the shaft, to rebore the wheel?

A. No. It is generally understood that when a

(Testimony of L. K. Siversen.)

wheel is bored, it is supposed to be bored right.

Q. Is that all of No. 9?

A. That concludes it, I think.

Q. I notice, Mr. Siversen, that in the question concerning the balance cylinder counsel has called it a small affair. Do you consider the making of a balance cylinder a small affair?

Mr. McCLANAHAN.—Well, I will say, Mr. Frank, that is in comparison with the low pressure cylinder; it certainly is, as compared with the low pressure cylinder.

A. When I answered, I considered it the same way, that it was a small affair compared with the low pressure.

Mr. McCLANAHAN.—That is the way it was intended.

Mr. FRANK.—Q. It is a large piece of work, is it not?

A. Yes, that is a big piece of work, to make the balance cylinder.

Q. The only difference is the low pressure is very much larger piece of work; the building of a ship would be a larger piece still. [1019—931]

A. There is quite a difference between the balance cylinder and the low pressure cylinder.

Recross-examination.

Mr. McCLANAHAN.—Q. Mr. Siversen, I am impressed with the feeling, from the detailed manner in which you have gone into some of these specifications—

Mr. FRANK.—What do you mean by “feeling”?

(Testimony of L. K. Siverson.)

Mr. McCLANAHAN.—Q. (Contg.) —that you have had your mind refreshed since I examined you yesterday on them; is that so?

A. Why, yesterday, when you examined me you would not allow me to say anything about these different specifications except “yes,” and so on.

Q. Have you had your mind refreshed since yesterday? A. Well, in what manner do you mean?

Q. Well, I mean in any manner.

Mr. FRANK.—Q. Whether you have gone over it and considered it? A. Yes, sir.

Mr. McCLANAHAN.—Q. So since yesterday you have gone over these specifications again more in detail, have you? A. Yes, sir.

Q. In conjunction with Mr. Frank?

A. Yes, sir.

Q. Did he furnish you with any information that refreshed your mind?

A. Mr. Frank, I do not think could furnish me with any information regarding that ship. There may be things recalled to my memory, perhaps, that I did not remember yesterday.

Q. That Mr. Frank recalled to your memory?

A. No, I do not think so. I do not think Mr. Frank has recalled anything.

Q. I do not mean Mr. Frank. I mean matter furnished by him. [1020—932]

A. No. That is just what I mean also. I do not think that there was anything furnished by Mr. Frank that I did not think of yesterday, but I did not say it because you did not ask for it, you did not

(Testimony of L. K. Siversen.)

want me to tell it.

Q. Well, I think you misjudge me there. I did not intentionally keep back anything.

A. Well, when I said—for instance, you asked me, was this work done, I said, yes, but there was more work done also, and you said, “All right, I am not asking about that.”

Q. My point was this, Mr. Siversen. I was inquiring from you whether the work was or was not done stated in the specifications. I admit that there was other work done and I did not want to refer to that at all.

A. Well, but I know you did not ask me if the work was done as it was stated in the specification, and I did not mean to say that it was. When I said “yes” to the several questions I meant that the purpose was accomplished, or not.

Q. Referring to No. 1 of the specifications, though it was not done in the manner called for by the specifications, the manner in which it was done accomplished the same purpose; is that correct?

A. The job may be done, and it may be a first-class job and it may be a temporary job; in order to make this a first-class job it could not be done as called for in the specifications. For instance, the specifications do not state that they were supposed to put corrugated rubber gaskets in the face of the pump; it said they were to be rejoined. We could put 1/16th or 1/8 black rubber in there and it would be a joint, and then [1021—933] we would not need to true up the faces of the pump because this black rubber would

(Testimony of L. K. Siversen.)

accommodate itself to the several uneven parts of the surface.

Q. Don't you know the specifications call for filing?

A. Yes, I know that, but that could not be filed so that it would make a good job with a copper gasket.

Q. Without the copper gasket?

A. With the copper gasket; where you put a copper gasket in between two faces, it has got to be true.

Q. Was the facing filed?

A. No, it was turned in the lathe to make it a better job.

Q. Was that more expensive work?

A. Why, of course; it entailed the removal of the pump from the ship to the shop, and putting in the lathe and facing off. And that is not all the work that was done to the pump either. When the floating top was removed there was pieces of the flanges broken off, the flange that holds the floating top in place; these pieces had to be patched up, patches fitted in there. If I don't remember wrongly, the floating top was shifted around 1/12 of a turn to a new location made for it, and there was new studs put in there, all new holes.

Q. Isn't that separate work from the specification job? Isn't that additional work? Specification 1 calls for no work on the floating top; isn't that so?

A. The specification does not call for it, no.

Q. I am not asking you about the extra work that was done on the pump. I am trying to confine you to the specification work. Now, Mr. Siversen, you

(Testimony of L. K. Siversen.)

say that the use of copper gaskets increased the cost of the job, and I understood you to say also that this [1022—934] work was authorized by Messrs. Putzar and Klitgaard? A. Yes, sir.

Q. Who dealt with them—you—in making the change in the specifications?

A. Well, I would not say that I dealt with them alone in all cases, but whenever I came across—

Q. Confine yourself to this case, please.

Mr. FRANK.—Let him finish his answer.

A. When I found that we could not make a first-class job in it, I do not remember whether my superior in the shop, or whether I called Mr. Putzar, but I know that at any rate Mr. Putzar and Mr. Klitgaard examined it and it would not be taken to the shop without their consent.

Q. Nor would you take it to the shop without the authority of your superior, would you?

A. If my superior tells me that you do as Mr. So-and-So tells you, whoever he is, I do as he tells me.

Q. Now, you are evading my question.

Mr. FRANK.—I do not think he is trying to evade your question.

Mr. McCLANAHAN.—Q. Would you, Mr. Siversen, increase the cost of that work by sending the pump barrel to the shop without authority from your superior, having the specification before you as you did?

A. Well, I would not send the pump to the shop of my own accord, but I will not say whether it was Mr. Wilhelmson or Mr. Putzar that individually told

(Testimony of L. K. Siversen.)

me to take it at that time, but I know that on a job of that description they were there, and that it would be the common consent or conclusion that it had to be done to make a good job out of it.

Q. You did not know whether this was a contract job or not, did you? A. No. [1023—935]

Q. Assume that it was a contract job, Mr. Siversen. Don't you think that Putzar or Klitgaard, or either or both, first conferred with Mr. Wilhelmson or Mr. Christy before this specification was changed in the way it was changed?

Mr. FRANK.—I object to what this witness thinks. It is a question of fact; whether he did or not, whether the witness thinks he did or not is utterly immaterial.

Mr. McCLANAHAN.—Q. Don't you know that if this was a contract job to be done for so much money there could not be any change in that job without the consent of the United Engineering Works and the Matson Navigation Company?

Mr. FRANK.—I make the same objection, putting a hypothetical question to the witness about what he would know if a certain thing happened, which does not tend to prove what the particular facts of this particular case are.

A. Well, the pump would not go to the shop without somebody's orders, and if it was a contract job, as you say, I would not take the pump to the shop unless somebody ordered me to do it.

Mr. McCLANAHAN.—Q. Somebody from the Matson Navigation Company, or from the United

(Testimony of L. K. Siversen.)

Engineering Works?

A. That depends upon what orders I had from the United Engineering Works, from my superiors.
[1024—936]

Q. That is, if it was a contract job there would be no changes in that without authority from your superior? A. No, sir.

Q. And in each case where there were changes from the specifications you say that Putzar and Klitgard acquiesced in the change? They agreed to them?

Mr. FRANK.—He did not say that.

A. As far as I can remember.

Mr. McCLANAHAN.—Q. Now, turning to No. 2 of the specifications, did not the balance cylinder accomplish the same work, and was it not intended to accomplish the same thing that the work called for by the specifications was intended to accomplish?

Mr. FRANK.—I object to that as utterly immaterial whether it accomplished the same result. The question is whether or not the result was accomplished in the manner agreed on in the specifications if it was an agreement or a contract. It is immaterial that the same result was accomplished in a different manner. The question is whether the work was done in the manner in which the parties had agreed it should be done or not.

A. Will you kindly repeat the question?

Mr. McCLANAHAN.—Read the question, Mr. Reporter.

(The Reporter reads the question.)

(Testimony of L. K. Siversen.)

Mr. FRANK.—I make the further objection, that this witness cannot know and cannot testify to what was intended by the contracting parties themselves.

A. In answer I wish to say that it could not be intended for the same purpose.

Mr. McCLANAHAN.—Q. It could not be intended? A. No, sir. The planing of the valve—
[1025—937]

Q. You have answered my question.

Mr. FRANK.—Finish your answer.

Mr. McCLANAHAN.—Q. Do you want to make a statement in that regard?

A. Yes, sir. I wish to say that the planing of the valve and its seat is altogether different from the placing of a balance cylinder, and will have no bearing on it at all.

Q. Is that all the explanation you want to make to your answer? A. That is all.

Q. Was not the work in No. 4 done as specified, with the exception that instead of reconstructing the high pressure and intermediate pressure shoes new ones were cast and filled with No. 1 Challenge metal, and that the guides were not restayed but new and heavier plates were refitted?

A. Yes, sir, that is right as far as I can remember. The guides, however, were planed off on the back before the new plates were fitted.

Q. Now, turning to No. 5, I understand you don't know, you are not sure of some of the details of that work? A. No, sir.

Q. Turning to No. 7, I will ask you if the sub-

(Testimony of L. K. Siverson.)

stituted work did not accomplish the same thing that would have been accomplished if the specification had been carried out.

Mr. FRANK.—We make the same objection to that. It is immaterial what the result of the work was. The contract has reference, if it be a contract, to the method and mode of performing the work, and not the result to be obtained. It might be that taking out the entire engine and putting in the new engine would accomplish the result herein intended, and there would be a first-class engine in the ship, but we would not be covered by a contract intended to make certain repairs to the engine, although the repairs themselves might make it a good working engine. [1026—938]

Mr. McCLANAHAN.—It is unnecessary to argue your objections.

Mr. FRANK.—I want to do so, so that when the Court comes to see them it will know the ground of my objections because I will not have an opportunity of arguing it orally before the Court.

Mr. McCLANAHAN.—Q. Answer the question, Mr. Siverson.

A. I wish you would read that question.

Q. Read the question, Mr. Reporter.

(The Reporter reads the question.)

A. Well, as far as I understand it the column that was intended to reinforce the bedplates was cracked, and the patch must necessarily have been intended for the same purpose. Whether or not the patch or the column is the best reinforcing I would not say.

(Testimony of L. K. Siversen.)

Q. Mr. Siversen, do you remember the length of the "Hilonian" crank-shaft?

A. No, sir, I cannot say that I do. I think it was around 18 feet.

Q. Do you remember the length of the "Hilonian" thrust-shaft?

A. No, sir; about 18 to 20 feet I guess.

Q. The crank-shaft and the thrust-shaft under the original specifications were to be put into the lathe together, were they not, in the shop?

A. Yes, sir, that is what it says here.

Q. What would be the swing of the lathe necessary to take in the crank-shaft?

A. I don't remember the throw of the "Hilonian" crank-shaft. That means the radius from the center of one pin to the extreme part of the circle that it will cover. You necessarily would have to know the distance from the center of the pin to describe the circle that is described by the whole shaft.

Q. If she had a 54-inch stroke, what would it be?
[1027—939]

A. Again, you have to know the thickness of the web, and to know the diameter of the pin. Then you would have to measure up the radius that is described when you set the three cranks at 120 degrees apart. That is a thing that cannot be guessed at. This has got to be laid out on paper.

Q. Do you know anything about the lathes in the shop? A. I do.

Q. Did you have a lathe that would take in the crank-shaft and thrust-shaft together?

(Testimony of L. K. Siversen.)

A. No, sir. That would not have reference to the throw.

Q. That would have reference to the length?

A. That would have reference to the length.

Q. You spoke of the corrugation of the line-shaft requiring the shaft to be shortened?

A. You are mistaken about that.

Q. Well, what was it?

A. The corrugations are on the shaft where it rests in the bearings.

Q. But where the shaft is joined in the coupling it had to be faced off? A. Yes, sir, faced off.

Q. How much was it faced off?

A. I don't remember, but I think it was a total of either half or $\frac{5}{8}$ of an inch.

Q. A total? A. Yes, sir.

Q. For all the couplings?

A. I think so; it is something like that; I am not positive.

Q. If that is so how much would each bearing have to be moved?

A. It would have to be moved the same amount.

Q. I do not understand that this was all taken off one coupling?

A. No, sir, it was taken off three couplings.

Q. That is the aggregate of the amount taken off of three couplings?

A. Yes, sir. But there is only one bearing before the shaft has been shortened, the total amount. All the [1028—940] other four bearings entails the whole shortening of the shaft.

(Testimony of L. K. Siverson.)

Q. How many holes had to be slotted?

A. Four bearings. There would be four holes in each. I think there were four holes in each bearing—four or six.

Q. That would be 16 holes?

A. That would be 16 holes of course.

Mr. FRANK.—Q. Did you say four or six?

A. It was four, I think.

Mr. McCLANAHAN.—That is all.

Further Redirect Examination

Mr. FRANK.—Q. Mr. Siverson, you answered off-hand about the lathe in the shop, as to whether or not it was large enough to take the crank-shaft and the thrust-shaft together?

Mr. McCLANAHAN.—I object to the question as improper when you say he answered offhand. He answered the question as he did all the other questions in his examination.

Mr. FRANK.—Q. I presume Mr. Adamson would know better than you, would he not, whether or not the lathe would be large enough to take the shafts in?

Mr. McCLANAHAN.—I object to the question as suggestive, leading and immaterial.

A. I don't think, as far as my mechanical knowledge goes, that any shop foreman or shop superintendent would think of putting the thrust-shaft and crank-shaft together in the lathe because there would be no earthly necessity for it.

Mr. FRANK.—Q. That would not be done in any shop?

(Testimony of L. K. Siversen.)

A. That would not be done in any shop. It is ridiculous.

Q. So far as the capacity of the lathe itself is concerned, that was the question, if it was attempted to be done, whether the lathe in that shop had sufficient capacity to take it. [1029—941]

A. It would not be attempted to turn the crank-shaft and the thrust-shaft together in the lathe. With the crank-shaft, it was intended it should be trued up and tried for being sprung or otherwise not true. There is a lathe sufficiently large enough to do that. The end of the coupling of the crank-shaft would necessarily be faced off. The end of the coupling of the thrust-shaft would also be faced off the same as any new coupling is faced off, and there would be no necessity or attempt of any mechanic to bolt the two shafts together in the lathe.

Q. In other words, that is not a proper mechanical job? A. No, sir.

Q. And the specification would be calling for a ridiculous thing; is that it? A. Yes, sir.

Q. You were asked about specification No. 7, whether or not they served the same purpose, that is, the column and the patch on the housing; whether they would serve the same purpose or not, you do know that they are entirely different work, are they not? A. Different work; yes.

Q. That is, in the performance of the work they bear no relation of one to the other? A. No, sir.

Q. You have been asked about the length of the crank-shaft, and the size of the "Hilonian"?

(Testimony of L. K. Siverson.)

Mr. McCLANAHAN.—I did not ask him a question about the size of the “Hilonian.”

Mr. FRANK.—You did in the original examination.

Q. You remember that, don't you, Mr. Siverson?

A. Yes, sir.

Q. How does the “Hilonian” compare in size with the ships in which you have served and which you have mentioned here?

Mr. McCLANAHAN.—I object to the question as irrelevant and immaterial and improper redirect examination. [1030—942]

A. The “Hilonian” is nowhere near it, not even half the size of some of the ships on which I have served.

Mr. FRANK.—Q. There is nothing extraordinary about the size of the “Hilonian,” is there?

A. Why, no, of course not. The “Hilonian” is not considered a very large ship. I presume the “Hilonian” would only carry one-third the cargo of the “Texan.”

Q. Counsel has also in his recross-examination made the suggestion that you have been testifying here with feeling to-day. Have you any feeling in this matter one way or the other?

Mr. McCLANAHAN.—I object to that. I have not made any such intimation or suggestion, or intended to.

Mr. FRANK.—Then you withdraw it?

Mr. McCLANAHAN.—I withdraw nothing because I have not anything to withdraw in that line.

(Testimony of L. K. Siverson.)

Mr. FRANK.—Very well.

Q. Have you any ill-feeling in this matter, Mr. Siverson?

Mr. McCLANAHAN.—That is objected to as improper examination. It is not suggested he has any ill-feeling.

A. In which manner?

Mr. FRANK.—If it is not suggested that he has any ill-feeling it is all right, let it go at that, but you did.

Mr. McCLANAHAN.—I beg your pardon. I said I had a feeling from his evidence that he had refreshed his memory.

Mr. FRANK.—You said, “You have testified with such feeling”—

Mr. McCLANAHAN.—I beg your pardon.

Mr. FRANK.—Very well, if I have mistaken you it is all right. If I have not mistaken you the record is corrected. [1031—943]

Mr. McCLANAHAN.—Yes.

Mr. FRANK.—Q. Now, you have been asked concerning these changes, and the question has been put to you whether Putzar and Klitgard agreed to the changes. I wish to know whether you mean to testify that they agreed to them, or whether they ordered them; in other words, were the changes made at their instigation or at your instigation?

A. The changes were made at their instigation.

Q. And when you said in answer to the question whether they agreed to it, you meant that they ordered it?

(Testimony of L. K. Siversen.)

A. I wish to make a statement regarding that.

Q. Very well.

A. And that is, that one man don't know everything, and that two mechanics are better than one mechanic in some instances. If Mr. Wilhelmson, who is the superintendent engineer of the United Engineering Works, and Mr. Putzar and Mr. Klitgard, who were chief engineers, come together and discuss a certain way of doing a mechanical job it may be that Mr. Putzar's suggestion is the best one, and it may be that Mr. Wilhelmson's suggestion is the best one; however, the man not being prejudiced and stuck on his own opinion, if he sees that another man is right he will agree to it. I wish to say that if Mr. Wilhelmson made the suggestion that such was the best manner in which it may be done, and that if Mr. Putzar saw that that was the best manner, that Mr. Putzar would let it go that way. On the other hand, if Mr. Putzar held to his own opinion that his way was the best, it was done accordingly.

Q. But you don't understand what I mean. Mr. Wilhelmson nor you would make any changes from the specifications unless Mr. Putzar and Mr. Klitgard would order it done in the way that it was finally agreed upon after consultation? [1032—944]

A. No, sir; of course not.

Q. On redirect examination you were asked about No. 5, and it was asked of you that you were not positive about the changes made in No. 5. Did you mean to say you were not positive about all of your testimony concerning No. 5, or was there some partic-

(Testimony of L. K. Siversen.)

ular part of it that you were not positive about?

A. I am not positive whether the high pressure eccentric straps were rebabbitted.

Q. Is that all?

A. And I am not positive if there was babbitts put into the brass liners of the low pressure, but I know that the shives were turned up, and I know that there were new bolts fitted in the low-pressure shives.

Q. The rest of your testimony regarding it you were positive of, and those are matters that you were not positive of? A. Yes, sir.

Further Recross-examination.

Mr. McCLANAHAN.—Q. Do you remember your evidence on your direct examination where you said that the thrust-shaft would be put in the lathe and faced off? A. Yes, sir.

Q. You remember that, do you? A. Yes, sir.

Q. If that was done, Mr. Siversen, that would necessitate the moving of the spring bearings, would it not, when the thrust was removed to the ship again?

A. Excuse me, but I don't quite understand you.

Q. If the thrust-shaft was faced off in the lathe in the shop that would shorten the shaft, would it not?

A. Yes, sir.

Q. That shortening of the shaft would necessitate the moving of the spring bearings, would it not?

A. Yes, sir. [1033—945]

(Testimony of L. K. Siversen.)

Further Redirect Examination.

Mr. FRANK.—Q. That is, the particular spring bearing that is under the thrust-shaft?

A. Yes, sir. But there is a difference in facing off the thrust-shaft collar or facing off the couplings of the thrust-shaft. Facing the thrust-collars will not shorten the shaft.

Q. There are other spring bearings are there not besides those under the thrust-shaft?

A. Yes, sir.

Q. They run up clear through the shaft-alley?

A. The facing of the thrust-shaft collars has nothing to do with the spring bearings.

(An adjournment was here taken until Tuesday, September 19th, 1911, at 9:30 A. M.) [1034—946]

Tuesday, September 19th, 1911.

[**Testimony of Henry Nelson, for Libelant.**]

HENRY NELSON, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Nelson, what is your business? A. Machinist.

Q. In the employ of the United Engineering Works? A. Yes, sir.

Q. How long have you been so employed?

A. Since January 1st, 1902.

Q. Were you employed on the steamer “Hilonian”? A. Yes, sir.

Q. When she was being repaired by the United Engineering Works in August and September, 1909, I think it was? A. Yes, sir, I was.

Q. In what capacity? A. As night foreman.

Q. On board of the ship?

(Testimony of Henry Nelson.)

A. On board of the ship.

Q. The work that you performed on board of the ship, how was it turned over to you?

A. I received all my orders through the day foreman.

Q. Who was that? A. Mr. Siverson.

Q. State somewhat more in detail how that was done.

A. Do you wish to know what was done on the job?

Q. No. I want you to begin with and state how the work was turned over to you.

A. When I took charge of the job I received orders from the officials of the United Engineering Works to receive all my orders through Mr. Siverson. I was there say an hour to an hour and a half before the work began at night, and went over with Mr. Siverson the work he had [1035—947] laid out for me to perform during the night.

Q. How about the work he had performed during the day?

A. The work he had performed during the day he went over and explained how he had progressed, and if there was any work he had not finished he explained to me how far it was, to go ahead with it. In the morning, when my night's work was done I waited for him and explained what part of the work I had performed, if any trouble had occurred during the night in any part of the work and I found exactly what it should be I reported it to him; that is, I reported what progress I had made during the night.

Q. You say the work was laid out for you that

(Testimony of Henry Nelson.)

was to be performed during the night?

A. Yes, sir.

Q. Just state exactly what you mean by that.

A. You must understand that there is certain parts of the work at night that cannot be performed at night as well as it can in the daytime, for instance, such as handling the heavy part of the machinery with the shear-legs, it cannot be done at night. Another reason is that a man cannot work in a large space, that is, what I mean is he cannot work in a whole engine-room such as handling heavy machinery. He has to concentrate his work in one small space on account of light and other conditions that we encounter at night such as dangers on account of the ship having no gratings, floor-plates being up and one thing and another. There was a great deal of the work such as filing the crank-pins and disassembling the engines done at night, taking out coupling-bolts, all such work was done by me at night. In working in the shaft-alley there were riveters driving out rivets. A man cannot work [1036—948] around a riveter when he is driving out rivets for fear of his eyes being knocked out. You cannot use the cannon in the daytime very well because after you explode two or three charges a man cannot enter until that smoke is cleared away. There are several objectionable features to working at nights.

Q. Then the particular piece of work that you were to finish up, as I understand, was laid out by you to be performed at night?

(Testimony of Henry Nelson.)

A. Yes, sir; it was laid out for me by the day foreman.

Q. Your work was confined, then, to a particular piece of work during the night and to a particular part of the ship? A. Yes, sir.

Q. Now, with respect to the men that were under you, I presume you laid out the work for the men?

A. I laid out the work for the men to their best advantage, that is, if I had a certain particular job and I had a first-class mechanic, he was the man who received that job.

Q. Did you oversee them?

A. I was there right along and oversee them.

Q. To see that they did the work properly?

A. Yes, sir; I was personally responsible for their work.

Q. How about the length of time that the men would work in the night-time on a single job, whether it was continuous, or whether they were passing from one job to another?

A. My work was for the most continuous. It was under all one continuous job. There were a few instances where they passed from one job to another, but I don't remember just how many. I don't think there were very many.

Q. I show you now, Mr. Nelson, a series of stock order cards [1037—949] which are identified by a letter and number as follows:

A6606, A6605, A6602, A6469, A6480, A6449, A6404, A6608, A6609, A6615, A6617, A6618, A6619, A6620, A6622, A6626, A6628, A6629, A6631, A6632, A6635,

(Testimony of Henry Nelson.)

A6636, A6637, A6639, A6642, A6644, A6648, A6649, A6653, B6808, B6809, A62, A1205, A1219, A1255, A1254, A1293, A2317, A2404, A2479, A2717, A2726, A3240, and A3241, and ask you whether those are orders for material ordered by you and received and used on board of the "Hilonian" on that occasion. Just go through them.

Mr. McCLANAHAN.—I object to the question on the ground that it is immaterial.

A. I will vouch for those stock order cards that are made out by me and signed with my name, that the material was ordered and used aboard the ship under my supervision.

Mr. FRANK.—Q. Are all these cards signed by you? A. They are.

Q. I notice one here, "A3240" which bears the signature of "Per Nelson"; is that your signature also?

A. No, sir, that is not mine. I can explain that card if I am asked to.

Q. Certainly.

A. The idea of that card being signed "Roberts per Nelson" was for this reason, that when that man was doing that babbitting that night he needed that Challenge metal, that that order calls for, to perform that work. There was no one in the shop at that time to give him an order for that. He came to me and asked me to go to the storekeeper and order the storekeeper to give him the material. The storekeeper's signature is on the card, which shows that the material was delivered to him on my orders.

(Testimony of Henry Nelson.)

Q. Who made out this?

A. Mr. Roberts must have made that out.

Q. This "Per Nelson"? A. Yes, sir.

Q. You went up and saw that he got it?

A. I went up and saw that he got it. I went up and ordered the storekeeper to give it to him in order to let the man perform the job.

Q. Was that man Chandler?

A. That man was Chandler. He is the man that does all the babbitting.

Q. The rest of them are all in your handwriting?

A. Yes, they are.

Mr. FRANK.—We offer these cards in evidence and ask that they be marked collectively "Nelson Stock Cards No. 1."

Mr. McCLANAHAN.—We object to the offer on the ground that the cards are incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent, and ask that the objection apply to each card.

(The cards are marked "Nelson Stock Cards No. 1.")

Mr. FRANK.—Q. I now show you, Mr. Nelson, a series of stock cards, marked respectively, "Roberts Stock Cards No. 1 to No. 21, inclusive," and ask you to go over those in detail and select those items from them which you know were used on board of the "Hilonian" on the job in question.

Mr. McCLANAHAN.—I object to the question as immaterial.

A. Those are the numbers that I have written

(Testimony of Henry Nelson.)

down, the ones that I have selected (handing).

Mr. FRANK.—They are “Roberts Stock Card No. 2, Roberts Stock Card No. 5, Roberts Stock Card No. 8, and Roberts Stock Card No. 19.”

Q. I notice, Mr. Nelson, that “Roberts Stock Card No. 2” is a combination [1039—951] Indian oil-stone? A. Yes, sir.

Q. What is that used for?

A. After the crank-pins in the main journals were filed up they required to be gone over with an oil-stone in order to further prepare them for the bearings.

Q. What became of those oil-stones?

A. They were used so much on the crank-pins and the journals that they were practically of no use after they were finished.

Mr. McCLANAHAN.—I ask that the answer be stricken out as not responsive to the question.

Mr. FRANK.—Q. By that I assume you mean they were practically used?

Mr. McCLANAHAN.—I object to the question as suggestive and leading.

A. Yes, sir.

Mr. FRANK.—I have somewhat lost track of my offers in evidence, and so that I may not forget it again I want it considered that all of the stock cards upon which I have examined any of the witnesses heretofore are offered in evidence, and each time that I examine another witness on any of them they are reoffered in connection with the testimony of such witness.

(Testimony of Henry Nelson.)

Mr. McCLANAHAN.—That would be all right, Mr. Frank, except that it seems to me all of these cards should bear an identifying mark. If there are any that have been used by you that have not an identifying mark they should be identified in some way.

Mr. FRANK.—They all have an identifying mark.

Mr. McCLANAHAN.—Then they have all been introduced in evidence. [1040—952]

Mr. FRANK.—By all having an identifying mark I do not mean on the back of them. Some of them are only identified by the serial numbers on the face. I do not see that that makes any difference in that regard, if that be so understood. It is a mere technical proposition, that is all.

Mr. McCLANAHAN.—I do not remember that you have not introduced any cards.

Mr. FRANK.—I do not either, but I want to make sure of it, so that will be the understanding, if you have no objection.

Mr. McCLANAHAN.—We object to the reoffer on the ground that it is incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent, and ask that the objection apply to each of the reoffered cards.

Mr. FRANK.—In order to save folios, perhaps we had better stipulate that that objection may apply as we go along without being repeated.

Mr. McCLANAHAN.—That is all right.

Mr. FRANK.—We have an enormous record here of objections and reoffers and one thing and another.

(Testimony of Henry Nelson.)

Q. I hand you a series of cards fastened together and collectively marked, "Speed Stock Order Cards No. 1," and ask you to go over those cards in the same manner that you did the former cards, and state what portion of the material you can now identify as having gone on board of the "Hilonian."

A. Those cards that I have enumerated there are identified by me as for material that has gone on the job.

Q. Material that you know has gone on the job?

A. Yes, sir.

Q. In identifying these cards generally we do not understand you to mean that the other material did not go on?

A. No, sir, there is no card that I have looked at there that [1041—953] I would say has not gone on the job, but those that I have enumerated specially I remember have gone on the job. Some of it I have personally handled and the others I know.

Q. And any cards that I shall give you hereafter, if there is any change or variation from that condition that you have just stated I should like to have you state the exception. A. All right.

Q. If you do not state the exception we will understand it is all subject to what you have just said. You refer to the red pencil marks up on the right-hand upper corner? A. Yes, sir.

Q. No. 2, however, is not in red but in black pencil? A. Yes, sir.

Q. The ones you refer to are No. 2, No. 29, No. 16, No. 15 and No. 19? A. Yes, sir.

(Testimony of Henry Nelson.)

Q. I now show you a series of cards marked "Roberts Stock Cards No. 22" and ask you to do the same thing with them and refer to them by the serial numbers.

A. (After examination.) A2462.

Q. Now, I present to you "Roberts Stock Cards No. 23" for the same purpose.

A. (After examination.) There are none of them that I can personally say I handled on the job.
[1042—954]

Q. I now present you a series of cards, most of which contain a signature per watchman Roberts, beginning with A2266 and ending with A3286, which I desire you to go through in the same manner.

A. (After examination.) A2395.

Q. I notice that is 45 pounds of challenge metal; was that taken on board of the ship?

A. No, sir; it was used in the machine shop on the eccentric straps.

Q. On the eccentric straps.

A. Yes. I will further say that most of that babbitting was done at night.

Q. Was this given to Chandler in the same manner that you have testified to concerning other challenge metal? A. Yes, sir.

Mr. FRANK.—I ask to have them marked "Roberts Stock Cards No. 24, Watchman," and also that all of these cards be considered in evidence under the stipulation just entered into, subject to the objection.

(The cards are marked "Roberts Stock Card No. 24, Watchman.")

(Testimony of Henry Nelson.)

Q. I now show you a series of cards marked "Stephen Cronin Stock Card No. 1," and ask you to perform the same service with respect to that.

A. A2494 and A6448.

Q. I now show you a series of cards marked "Fred Boyd Stock Cards" and ask you to perform the same service.

A. There is none of them that I can say I have seen personally used.

Q. I now show you "Wilhelmsen Stock Cards No. 1," and ask you to perform the same service.

A. None.

Q. I show you "S. M. Robinson Stock Card No. 1," and ask you to perform the same service.

A. C3924 and A1769. [1043—955]

Q. I now show you "S. M. Robinson Stock Cards No. 2," and ask you to perform the same service.

A. None.

Cross-examination.

Mr. McCLANAHAN.—Q. Are you still in the employ of the United Engineering Works, Mr. Nelson?

A. Yes, sir.

Q. With reference to your own cards that have been introduced in evidence, how did you get the job numbers, Mr. Nelson?

A. It is customary when we start a job to receive all the numbers that are included in that job. In this case I received them from the day foreman.

Q. In writing? A. In writing, sir.

Q. What did you receive—just the numbers?

A. I cannot recall—I received just the numbers.

(Testimony of Henry Nelson.)

Q. Just the numbers? A. Yes, sir.

Q. Nothing else? A. Nothing else.

Q. So if the numbers were 400, 600 and 900, you received just those numbers?

A. I received those numbers and there was an explanation furnished with each number, of what it was for.

Q. That is what I asked you, if anything else was received by you.

A. That includes an explanation, of course, of the work that was to be performed under that number. The numbers themselves would be of no use to me if I did not know what they would be for.

Q. I call your attention to your card A6404, and ask you if you can explain the change on that card of the number?

A. Possibly. The only way I can explain that is possibly it was a wrong number when it was made out, and I changed it at the time I made it out.

Q. You made it originally, didn't you?

A. I did, sir. [1044—956]

Q. And you think you possibly put the wrong number on it when you originally made it out?

A. Yes, and I could have changed it at that time.

Q. At what time?

A. At the time that I made it out. It is very easy to make a mistake and notice it before you would send the man for the material.

Q. I call your attention to card A6628, can you from an examination of that card tell me what the particular specification was that was attached to that

(Testimony of Henry Nelson.)

number when it was handed to you?

A. I do not understand what you mean by the specification.

Q. Well, let me make myself clear. I asked you where you got the job numbers and you said they were given to you by the day foreman and to them was attached an explanation of the work attaching to each number? A. Yes, sir.

Q. Now, do you understand my question, Mr. Nelson?

A. You wish me to explain to you when I made out these if this was a right number?

Q. No. I want to know if you can now by looking at that card tell me what the specification was that was attached to the number 5295 when it was handed to you?

A. No, sir, I cannot. I have worked on many jobs since that time, of the same kind as this.

Q. I do not think you understand me now. Where was the material used, for what purpose was it used, the material on that card?

A. It was used on the patch that was placed on the condenser. The card calls for that.

Q. Would 5295 cover the patch on the condenser?

A. It would, sir, if it called for it in the list that I had [1045—957] received from the day foreman.

Q. So that on this list of numbers 5295 appeared and under the specification of work to be done on that was a patch on the condenser? A. Yes, sir.

Q. I will ask you the same question with reference to your card A6632; the job number is 5325 and the

(Testimony of Henry Nelson.)

material was used on main shafting. Would the main shafting appear as one of the specifications under No. 5325?

A. It would, sir. Any way, in explanation I will say that according to what I originally received as to the work to be done under that there was considerable changes made. In reference to that patch it was originally intended to put a column in there, but the patch took the place of the column, consequently the work was done under the same number.

Q. You remember that, do you?

A. I do, sir, distinctly.

Q. So that 5295, when it was originally handed you, called for a column? A. Yes, sir.

Q. And this patch was a change later on?

A. Yes, sir.

Q. To take the place of the column?

A. Yes, sir.

Q. You don't know anything about the change, who made it?

A. I do not know, sir; it was not under my jurisdiction.

Q. I hand you your card A6637 and ask you if you can tell me where the 8 bolts and nuts called for by the card there were used.

A. Yes. They were used on the circulating engine.

Q. The new one that was brought in?

A. There was—I can't remember whether the new circulating pump was put aboard at that time or not, but those bolts are bolts that are similarly used to

(Testimony of Henry Nelson.)

connect up the copper pipe which was done at that time. Whether the circulator was put in at that time that she had the overhauling [1046—958] or before, I don't remember. But the copper pipe, I do remember was connected up.

Q. But you are sure that those nuts were used on the circulating pump?

A. Those bolts and nuts were used on that circulating pump.

Q. But whether it had been installed in the vessel at that time you don't know?

A. I don't remember whether it was in there at that time.

Q. Or came in later? A. Or before that.

Q. Or before that? A. Or before that.

Q. But it was the new circulating pump?

A. It was the new circulating pump that was being connected up when this work was going on.

Q. You remember that, do you? A. I do, sir.

Q. Those nuts were necessary, were they?

A. Yes. It calls for bolts there if I am not mistaken.

Q. They were necessary?

A. They were absolutely necessary to perform the job.

Q. To perform the job connected with the circulating pump?

A. Connected with the circulating pump.

Q. I hand you your card A62, Mr. Nelson, and ask you if the material on that was also used in connection with the new circulating pump.

(Testimony of Henry Nelson.)

A. It must have been used on the circulating pump if they were signed by my name, and it indicates there where it was used on—I can't just remember at the present time exactly where they were used, but if I had wrote on that stock order card that they were used on the circulator, they were used there at that time.

Q. I notice quite a number of your cards show a change in the [1047—959] job number. Is your explanation the same for each of them?

A. Yes. That change could have been made by me personally at the time that the card was made out.

Q. Mr. Nelson, referring to your identification of "Roberts Stock Card No. 5" of his exhibit 1 to 21, I see that there is a hand-saw on it. A. Yes.

Q. What became of the hand-saw after it was used?

A. In reference to that hand-saw I will say that I did not intend to identify the hand-saw. There is another part of that order that I wish to identify. The hand-saw I have no recollection of.

Q. You simply identified the five pounds of black blasting powder?

A. Yes, that is what I wish to identify.

Q. Referring to "Speed Stock Cards" I ask you who put the red pencil marking on these cards, Mr. Nelson.

A. I cannot explain that part of it. They are probably done in the office by way of identification

(Testimony of Henry Nelson.)

or probably done afterwards. It is not for me to explain.

Q. Calling your attention to card A2462 of "Roberts Stock Cards Exhibit No. 22," one piece 3x14x14 teakwood. Can you tell the board measurement of that piece? A. I cannot, sir.

Q. Can't you figure it out?

A. No, sir. I have not studied the lumber measure.

(A recess was here taken until 2 P. M.) [1048—960]

AFTERNOON SESSION.

HENRY NELSON, redirect examination:

Mr. FRANK.—Q. You were asked about this card "A6628"—"patch on the condenser"; was that the bronze patch?

A. Yes, sir, it was a bronze patch cast especially to fit that place in order to reinforce the crack.

Q. You were asked about whether it was to take the place of the column.

Mr. McCLANAHAN.—I object to the question on the ground that it is a misstatement of the evidence. The witness testified it took the place of the column without my asking about it.

Mr. FRANK.—Very well.

Q. You understand what I am after, Mr. Nelson?

A. Yes, sir.

Q. As a piece of mechanical work is anything in the nature of that patch like the setting up of a column?

(Testimony of Henry Nelson.)

A. It is entirely different, and it cannot be classed as the same job at all. It is an entirely different job in all respects.

Q. Now, you were asked about "A6637," whether or not the material specified in that card was used on the circulating engine. Just where was that used?

A. Will you let me see the card by way of explanation?

Q. "6637" (handing).

A. This tag calls for $8\frac{3}{4}$ by $2\frac{3}{4}$ bolts with hexagons used on the circulating engine. This could be used on any part of the circulating engine. It could be used on the plate that bolted on the air pump or the old valve face that was taken off. It could be used for that. [1049—961] There was a valve face taken off and a new casting made to take its place, to take the discharge for the new circulator. It could be used on that. It could be used on bolting the copper or the brace that was used on the circulator.

Q. On your direct examination you were asked if that had to do with a copper pipe, the installation of a copper pipe, or rather the bolting of the copper pipe. Did that have anything to do with setting up the circulating pump?

A. It was an entirely different job. It included installing the circulator. As far as setting up the circulator I would not class it the same.

Q. I show you a paper marked Respondent's Siver-sen Exhibit "A," and call your attention to paragraph 11, and ask you whether or not installing of

(Testimony of Henry Nelson.)

the copper pipe or fitting of the copper pipe is in anywise described in that paragraph 11.

Mr. McCLANAHAN.—I object to the question upon the ground that it is not proper redirect examination.

A. The copper pipe is entirely different from what it calls for there in No. 11; that is an entirely different piece of work.

Mr. FRANK.—Q. Now, with reference to these cards that you have gone over, what, if anything, can you say as to the material therein specified being necessary for the work that you knew to have been done on board of that ship?

Mr. McCLANAHAN.—I object to the question upon the ground that it is not proper redirect examination.

A. All the cards that I have looked at, including those I have picked out and those I have not picked out that I know personally were handled by me or my men on the job, I will say that the material is of such a nature that it would be used on a job of that kind, for experience has taught me that that [1050—962] is a class of material that is used on all jobs of that description. There is nothing there that would not have gone into that ship to be used in the work that was going on at that time.

Mr. FRANK.—Q. With regard to the babbitting work, Mr. Nelson, do you recall what particular parts of the machinery came on board of the ship rebabbitted?

(Testimony of Henry Nelson.)

Mr. McCLANAHAN.—I object to that as improper redirect examination.

A. There were five spring journals that were sent to the shop to be rebabbitted, and came back bored and finished. There were four complete sets of main journal brasses. That includes eight separate pieces. There were high and low pressure shoes. There were 5 or 6 thrust-collars. There was also the high and low pressure eccentric straps and some other small work that I cannot just remember that was done, but I cannot recall it just at this time.

Mr. FRANK.—Q. Do you know what was done with respect to the remetalling of the eccentric straps?

Mr. McCLANAHAN.—I object to the question as improper redirect examination.

A. The low-pressure eccentric straps were taken to the shop and they were first bored out; then there were semi-circular Tobin bronze or phosphorus bronze of liners put in. They were afterwards pocketed and bored out after the low-pressure shives had been turned in in the mill and fitted to the same. I don't recall whether the high pressure shives were turned. I do recall that they were first remetalled and then bored and fitted aboard the ship after the shives were in place. Whether the high pressure eccentrics were turned I don't remember.

Mr. FRANK.—Q. They were fitted, however, with brass liners, were they?

A. They were fitted with brass liners, pocketed and filled with metal. [1051—963]

(Testimony of Henry Nelson.)

Recross-examination.

Mr. McCLANAHAN.—Q. Do you remember your testimony this morning on my cross-examination, relative to your card “A6628,” the card referring to the bronze patch? A. Yes, sir.

Q. Do you remember your testimony this morning with reference to the card “A6637” and “A62,” with reference to the circulating pump? A. Yes, sir.

Q. Have you discussed your evidence on those two matters since then with anyone?

A. I have looked over certain evidence and recalled it to my mind since then by thinking over the matter.

Q. You have discussed the matter with Mr. Frank, have you?

A. I have, and some of the other men that worked with me on the job.

Q. The material called for by the last two cards “A62” and “A6637” was material that was necessary for the installation of that circulating pump, was it not?

A. That is a very hard question for me to answer. Part of that installation of that circulating pump included putting on this cast-iron piece to take the discharge from the new circulator. I have already stated that we installed some copper pipe that it does not call for in those specifications which, when I made out the tag at that time included the whole circulating pump. I did not specify any particular part of it. It could be the instalment; it could be the cast-iron pipe that was put on there to take the dis-

(Testimony of Henry Nelson.)

charge; it could be the copper pipe. It is something I do not remember at this time because them bolts are of a size that is used very often. We have used a great many of them and I have used many of them since that job. [1052—964]

Q. What was it that you discovered that has made your memory cloudy on that matter? Did you not this morning testify that those bolts were used in the installation of the pump?

A. Yes, sir. I have since remembered that we put on a piece where the old valve-chamber was to take the opening of this new circulator.

Q. What was it that has refreshed your memory to that extent?

A. For the very simple reason that I made an examination of that ship last week, and it is one of the things that is recalled to my mind in thinking it over.

Q. I say, what was it since your examination this morning that has refreshed your mind?

A. In thinking over what I done, for instance. You must remember it is two years ago since I worked on that job. In thinking over what I performed on that job it came to my mind those bolts could have been used in this cast-iron piece that was put on.

Q. Was there anything to assist you in coming to that conclusion?

A. You mean know about me in regard to that ship at all?

Q. Answer my question. Did anything assist you in coming to that conclusion?

(Testimony of Henry Nelson.)

A. What do you mean by “anything”?

Q. Any person?

A. Certainly. I have spoken over what was performed on the job.

Q. Who was the person?

A. I have looked over some of the testimony.

Q. What testimony?

A. I have looked over some of the testimony of Mr. Siversen.

Q. Did any person assist you other than Mr. Siversen’s testimony? A. No, sir.

Q. You say you made an examination of this work on the ship [1053—965] in the last week?

A. I did, I have a perfect right to do so.

Q. Of the “Hilonian”? A. Yes, sir.

Q. When did you make an examination?

A. Last week.

Q. Did you go on the ship?

A. I made a personal examination of her.

Q. Of what?

A. Of the steamship “Hilonian” and of the work as far as I knew that was performed there.

Q. What day was it last week?

Mr. FRANK.—Q. What materiality is that?

A. I do not consider that is—

Mr. FRANK.—I will attend to that, Mr. Nelson, but it is immaterial.

Mr. McCLANAHAN.—Q. What day was it last week?

A. If I am allowed to answer the question I will answer it.

(Testimony of Henry Nelson.)

Mr. FRANK.—Q. You are allowed to answer it.

A. It was last Friday afternoon about one hour before she sailed.

Mr. McCLANAHAN.—Q. What examination did you make? A. I went down and looked at her.

Q. Looked at what?

A. Through the engine-room.

Q. Went through the engine-room?

A. Yes, sir, from the shaft-alley to the boiler-room, and some of the work to it that I did not know exactly at that time was recalled to my mind by looking at her.

Q. You could still distinguish the work, could you?

A. I could. If the ship was here I could point it out to you.

Q. All the work that was done?

A. All the work that was done under my supervision at night, and I think most of it that was done in the daytime.

Q. That examination was just as fresh in your mind when I [1054—966] examined you this morning as it was this afternoon, was it not?

Mr. FRANK.—I submit there is absolutely no difference in his testimony this afternoon from what it was this morning on the questions you examined him on.

Mr. McCLANAHAN.—Q. Answer the question.

A. You are asking me why I changed my testimony; is that the idea?

Mr. FRANK.—Read the question.

(Testimony of Henry Nelson.)

Mr. McCLANAHAN.—Q. Did you change your testimony?

A. Is that what you are asking me, if I did change my testimony?

Q. That was not my question. My question was this—read the question, Mr. Reporter.

(The Reporter reads the question.)

A. I think I have a perfect right to refresh my mind at any time I wish. I do not suppose anyone has any right to dispute that fact. If I wish to make some changes in my testimony at any time as it progresses, I think I have a perfect right to do so.

Q. Will you please answer my question?

Mr. FRANK.—Just read the question to him.

(The Reporter reads the question.)

A. The idea of your question is this: you are trying to ask me if I refreshed my memory since this morning.

Mr. McCLANAHAN.—Q. Will you please answer the question that I asked you?

A. I don't understand what you mean by refreshing my memory or if I understood the question the same this morning.

Q. I will ask you the question again, then, Mr. Nelson.

A. All right, do so. Please make it very plain, so that I can understand it. [1055—967]

Q. I want to know whether your mind had not been just as refreshed by your examination of the work on the "Hilonian" last Friday, this forenoon when I examined you, as it was this afternoon when

(Testimony of Henry Nelson.)

Mr. Frank examined you? A. Yes, sir, it was.

Q. You did not need Mr. Siversen's evidence to refresh your memory?

A. No, sir, I did not actually need it, no, I did not.

Q. Yet you say an examination of Siversen's evidence did refresh your memory? A. It did.

Q. In what particular did it refresh your memory?

A. Mr. Siversen's testimony did not refresh my memory as much as it did the specifications.

Q. As much as your memory was refreshed by the specifications?

A. The specifications in that special regard refreshed my memory.

Q. I hand you the specifications that you refer to, Respondent Siversen's Exhibit "A," and ask you what part of the specifications refreshed your memory (handing). A. No. 11.

Q. No. 11 refreshed your memory as to what?

A. As to the disposal of them bolts that you asked me about this morning.

Q. What was it that your memory was lacking in before you examined it?

A. That is, I lacked in that I did not remember at that time that we had put this plate on to take the opening of the new circulating pump.

Q. Did you not see that plate when you examined the "Hilonian" Friday last?

A. I did. I made a special note of it, but I did not recall that to my mind this morning when I answered your question. [1056—968]

Q. Had you ever seen these specifications before?

(Testimony of Henry Nelson.)

A. I had not. I saw them the other day; that is, I read them over, but at the time the job was performed I had nothing to do with them whatever.

Q. How, then, not having seen these before, when you were working on the job, do they refresh your recollection?

A. Because I was in constant touch with the work at all times and I could recognize the work.

Q. You recognize that these are specifications of work performed on the "Hilonian"?

A. They were similar.

Q. Similar to this?

A. Yes, sir. The work performed was not up in many instances to what it called for in the specifications, but it was similar.

Q. Do you not recognize No. 7 of the specifications as the work originally called for that the bronze patch took the place of?

A. I don't know what it originally called for in No. 7. I had no specifications, and as I have stated before in my testimony, I received my orders from Mr. Siversen. What they originally were, I don't know. By reading his I remember that there was no column put in the ship, but there was a patch to take the place of this column.

Q. Don't you remember testifying this morning, volunteering the information that this patch was to take the place of a column? A. Yes, sir.

Q. You do remember that? A. I do exactly.

Q. And performed the same service as the column?

A. Yes, sir, exactly.

(Testimony of Henry Nelson.)

Q. Look at No. 5 on the specifications. You have testified in regard to that item of the specifications on your redirect examination?

A. Yes, sir. [1057—969]

Q. When did you examine No. 5 of the specifications?

A. When I examined No. 5 of the specifications?

Q. When did you? Since I examined you this morning?

A. No, sir; I have not examined this part of it. I read the specifications over, which I have a perfect right to do at any time, but as far as I say I was not working to these specifications at all.

Further Redirect Examination.

Mr. FRANK.—Q. Mr. Nelson, did you read Siversen's testimony since you testified this morning?

A. No, sir; I have not; not since this morning.

Q. You mean at some previous time you read his testimony? A. Yes, sir.

Q. Before you were called?

A. Before I was called.

Q. In your discussion—you say you discussed the matter with me since your examination—in your discussion with me did I offer any suggestion to you at all?

A. No, sir, Mr. Frank. You are not in a position to suggest anything in regard to that.

Q. I asked you questions, however, didn't I?

A. Yes, you have asked me questions in order to enlighten yourself as it were in regard to the job.

Q. With regard to the specifications, or something

(Testimony of Henry Nelson.)

similar to these specifications that are called Respondent Siverson Exhibit "A," I understand you went over those also at some time previous to being called? A. Yes, sir.

Further Recross-examination.

Mr. McCLANAHAN.—Q. Mr. Nelson, on my recross-examination of you, you stated that the matter which had refreshed your memory between Mr. Frank's examination this afternoon and my cross-examination this morning was your reading of Siverson's [1058—970] evidence. Now, I am led to believe—

Mr. FRANK.—He did not say that.

Mr. McCLANAHAN.—Q. Now, I am led to understand you did not read Mr. Siverson's evidence during the noon hour?

A. If that is what you mean I will say that I did not read Mr. Siverson's evidence during the noon hour.

Q. Then I will have to ask you again: what was it that refreshed your memory between my examination this morning and Mr. Frank's examination this afternoon? Was it simply and solely the talk with Mr. Frank?

Mr. FRANK.—I submit there is no change in his testimony between this morning and this afternoon that called for any refreshment; no change of any kind. It is an assumption on the part of the counsel that there is such a change or that a refreshment was necessary.

Mr. McCLANAHAN.—Q. Answer my question.

(Testimony of Henry Nelson.)

Read the question to him, Mr. Reporter, so that he can understand it.

(The Reporter reads the question.)

A. It was purely and simply in talking over the different parts of the work that I had performed in relation to the circulating-pump, that I had performed on board of the ship. Mr. Frank is not in a position to suggest anything with regard to that job.

Q. I have not intimated that Mr. Frank suggested anything. I simply intimated that you had a conversation with Mr. Frank that enabled you to refresh your memory.

A. I did have a conversation with Mr. Frank.

Q. Was that the sole cause for refreshing your memory? A. No, sir, it was not.

Q. What else?

A. Any man can refresh his memory by thinking [1059—971] over a certain piece of work that he has performed at any time previous to the time he was asked.

Q. Now, Mr. Nelson, when I examined you, you had read Mr. Siversen's evidence? A. Yes, sir.

Q. You had examined the specifications?

A. Yes, sir.

Q. And you had visited the ship? A. Yes, sir.

Q. And between my examination which closed at 12 o'clock and Mr. Frank's examination at 2 o'clock you had simply had a talk with Mr. Frank?

A. I did have a talk with Mr. Frank, yes.

Q. Was that not the sole means of refreshing your memory?

(Testimony of Henry Nelson.)

A. Then you mean to say and insinuate that I cannot think over a job of my own accord and bring that to my own mind, any part of that work that was performed there. Mr. Frank is in no position to refresh my memory in regard to that job, he never being aboard the ship in his life and was never there when the job was performed. I don't understand how he could refresh my memory in regard to that.

Further Redirect Examination.

Mr. FRANK.—Q. Mr. Nelson, in what respect, if you know—if you do not know perhaps counsel might indicate to you—is your testimony different this afternoon from what it was this morning? What difference is there? What change did you make if any?

A. There is only one difference if there is any change at all, I cannot understand what it is, with the exception that when I testified this morning I testified that them bolts could have been used on the copper pipe. I stated this afternoon they could have been used on this flange or opening to take the circulating discharge from the new pump. They could have been used on that. [1060—972]

Q. Did I make any suggestion about that at all.

A. No, sir, you did not.

Q. Did I say anything about it?

A. Not that I can remember, that you suggested anything about it. They could be used in them two places, and as I said I have used many bolts since then of the same kind.

Q. Is there any other particular in which you have

(Testimony of Henry Nelson.)

changed your testimony that you know of?

A. Not that I know of; no.

Q. Or any manner in which you have refreshed it, except as you have stated, thinking the matter over?

A. No, sir.

Mr. FRANK.—I think myself this is an attempt to make something out of nothing. For the life of me I cannot see what counsel is driving at.

[**Testimony of Robert Campbell, for Libelant.**]

ROBERT CAMPBELL, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Campbell, you are working at the United Engineering Works? A. Yes, sir.

Q. And were in August and September, 1909?

A. Yes, sir.

Q. In what capacity? A. Watchman.

Q. As watchman was it ever your duty to pass out stores from the storeroom? A. Yes, sir.

Q. When? A. At night-time.

Q. At night-time?

A. Yes, sir, after the storekeeper had left.

Q. Now, I show you a series of cards marked on the back "Roberts Stock Cards No. 24, Watchman," and ask you whether or not those are cards made out by you for stores issued from the storeroom at the times indicated in the cards, and for work to be done under the numbers indicated on the cards. [1061—973]

Mr. McCLANAHAN.—I object to the question as being immaterial, and on the further ground that the witness has not qualified to answer the question.

(Testimony of Robert Campbell.)

Mr. FRANK.—Why has he not qualified?

Mr. McCLANAHAN.—I do not know how a watchman can identify the numbers on those cards.

Mr. FRANK.—You will find out then.

Q. You have been over these before?

A. Yes, sir.

Q. Now, give me those only that you did.

A. Just the ones that I did. All right. Here is one that I made out, “A2315”; here is another one that I made out, “A2336”; here is another one of mine, “A2349”; here is another one, “A2351”; here is another one, “A2369”; here is another one, “A2721”; here is another one, “A2724”; here is another one, “A3243”; here is another one, “A3286.”

Q. Now, go back Mr. Campbell and look at “A2266” again. A. That is mine too.

Q. That is yours? A. Yes, sir, “A2266.”

Q. Now, I will pass you another one. Look at “A2395.” A. Yes, sir, that is mine.

Q. Now, let me give you another. Look at “A2402.” A. Yes, sir, that is mine.

Q. Look at “A3242.”

A. No, sir, that is not mine.

Q. All right. Now, look at “Roberts Exhibit No. 23 Stock Cards,” “A6403.”

A. Yes, sir, that is mine.

Q. And in the same exhibit “A6405.”

A. Yes, sir, that is mine too.

Q. In “Roberts Exhibit Stock Cards No. 22,” look at “A6402.” A. Yes, sir that is mine.

Q. Now, with respect to these several cards, Mr.

(Testimony of Robert Campbell.)

Campbell, [1062—974] where would you get the details from which to make them out?

A. They would come with a list of material that they wanted, either bring a list of it, maybe they would send a helper, or maybe one of the mechanics would come and get it. I would have to give it according to their order. If there was any doubt about the order there is a list hangs right on that desk there.

Q. When you say about the order, do you mean the job number? A. The job number; yes.

Q. What would you do with respect to the list that you say hangs there?

A. If there was any doubt about the job numbers I would take the list; if there was not any doubt about any job numbers I would not. The job numbers were all right there hanging on the desk so that we could refer to them at any time.

Q. Was there any other work going on at night-time there during this time that you recall except on this steamer? A. No, sir, no other work going on.

Q. No other work going on? A. No, sir.

Q. And so far as the different job numbers on the steamer is concerned what, if any, inquiry would you make of the men to ascertain if they had the right job number?

A. I would ask them what it was to be used on quite often and I got accustomed to it, so that I almost knew from the length of time that the boat was in there what materials should go on, and what certain men were working on certain work.

(Testimony of Robert Campbell.)

Q. How long have you been working as watchman in the United Engineering Works?

A. About four years and a half.

Q. And during that time has this always been part of your duties? A. Yes, sir. [1063—975]

Cross-examination.

Mr. McCLANAHAN.—Q. What are your other duties as watchman, Mr. Campbell?

A. What are my other duties?

Q. Yes.

A. Well, I have to ring the fire-alarm clocks and take the lines of vessels that may come in, travel around the yard.

Q. Is your work all night work? A. Yes, sir.

Q. Have you given us all your duties?

A. I sometimes make up the shop-cards in the office, in the daytime.

Q. The time-cards, you mean? A. Yes, sir.

Q. Who for? Who do you make those up for?

A. For the timekeepers; to have them for them ready in the morning.

Q. I don't know exactly what you mean by making them up.

A. I separate the yellow from the white. There is an inside and outside card used by the men working there on different work. The yellow cards are kept in one pile and the white in another. Then they are all separated into hundreds, the highest number is put at the bottom, starting at 500 and so on down until you get to 100.

Q. That is what you mean by making them up?

(Testimony of Robert Campbell.)

A. Yes, sir; so that they can take them right along.

Q. Any other duties?

A. No, sir; that is about all, only sometimes I have to wait on the toolroom a little bit, give them out some tools once in a while out of the toolroom.

Q. I do not quite understand where you get the job numbers that you place on these yellow stock cards. Are they given to you by the men who want the material? Does a man come and say, "I want such and such material for such and such job number"? [1064—976]

A. Sometimes he does. If he does not know the number, if he has not got an order for it, as I told this gentleman, we have got a list there with the job numbers on it and I refer right to that and take the job number from that.

Q. How do you know the job numbers to which certain material belongs?

A. He tells me who he is working with, what he is on.

Q. He tells you the class of work he is doing?

A. Yes, sir. He tells me what the material is to be used on. As a rule, they know the number.

Q. And you take their statement of what the number is and put it on the card? A. Yes, sir.

Q. That is the rule you say? A. Yes, sir.

Q. You do not follow the man down to the ship?

A. No, sir.

Q. And see that he uses the material that you give him? A. No, sir.

Q. Can anyone in the employ of the United En-

(Testimony of Robert Campbell.)

gineering Works get material from you under the circumstances as you have stated?

A. Yes, sir, they can, if they bring me an order or if the number of the job is there on the list.

Q. What do you mean by "bringing the order"—simply a written paper?

A. If the foreman on the job writes out an order, as they often do—often the foreman on the job carries a book, an order-book, and he writes out an order.

Q. One of these yellow slips? A. Yes, sir.

Q. Suppose that the man has not a yellow slip or order. You would give him material if he asked for it? A. Yes, sir.

Q. And these cards that you have identified are cards that represent material given out where the man has not an order? A. Yes, sir. [1065—977]

Q. These are written out in your hand, are they not, Mr. Campbell? A. Yes, sir.

Q. The foreman, Mr. Roberts, signs them the next morning, does he?

A. Yes. Mr. Roberts is the storekeeper.

Q. I mean storekeeper; I said foreman.

Redirect Examination.

Mr. FRANK.—Q. Before he signs them, I presume you satisfy him of the correctness of them.

Mr. McCLANAHAN.—I object to that as suggestive and leading.

Mr. FRANK.—Q. Go ahead.

A. No, I don't. I do not see him in the morning. I am gone home before he goes in the morning.

(Testimony of Robert Campbell.)

Q. When you say that any man can come and get it from you you don't mean that any stranger can come to you and get it? A. No.

Mr. McCLANAHAN.—That was not my question.

Mr. FRANK.—I do not care what your question was. It was the inference.

Mr. McCLANAHAN.—He did not say that.

Mr. FRANK.—What did he say, Mr. McClanahan?

Mr. McCLANAHAN.—My question was, could any one in the employ of the United Engineering Works under the circumstances that he has stated come and get the material, and he said yes.

Mr. FRANK.—Q. Well, do you know the men upon the job, as a rule, in the night-time?

A. As a rule, yes, I know them. Being there so long I would know them pretty near all.

Q. You would know what they were doing?

A. Yes.

Mr. McCLANAHAN.—Q. Mr. Campbell, where would you leave these cards when you leave in the morning? [1066—978]

A. Well, there is a book there something like a check-book in the storeroom. It is a book, well, about the size of those material cards there, about this length, with a stub on it, and I would just make out the order in here and fill out the stub and turn over another leaf, and when I filled that out, turn over another one, just as many of them as I required, and leave them right in the book for Mr. Roberts. If I had occasion to tear out one I would put it in a

(Testimony of Robert Campbell.)

box that is at the desk there, where, in case any of the foremen sent up an order for material, we put the order in this box that is for that purpose.

Mr. FRANK.—Q. I understand you to say these are all in your own handwriting. A. Yes.

[Testimony of James Lewis Chandler, for Libellant.]

JAMES LEWIS CHANDLER, called for the *petitioner*, sworn.

Mr. FRANK.—Q. Mr. Chandler, you are in the employ of the United Engineering Works?

A. Yes, sir.

Q. And have been for some time?

A. Five years this fall.

Q. Five years? A. This November.

Q. What is your occupation? A. Machinist.

Q. What particular work have you been employed on over there?

A. I have been doing the babbitting mostly, and a good deal of the sheet metal work and other parts as I am ordered.

Q. In August and September, 1909, do you remember doing work for the "Hilonian"?

A. Yes, about that time; I know it was a long time ago, two years about.

Q. I will show you a stock card, being part of "Nelson's Stock Card Exhibit No. 1," being A3240, and ask you to look at that, [1067—979] and state whether or not you used the material indicated on that card. A. On the eccentric straps.

Q. Did you get the babbitt metal yourself?

(Testimony of James Lewis Chandler.)

A. I ordered it; I did not go and get it. One of my helpers.

Q. It would come to you? A. Yes.

Q. And you would use it? A. Yes, sir.

Q. Do you have any recollection about this particular card? A. No, I have not.

Q. When you order it, how would you order it with reference to quantity?

A. I would tell the man that I sent for it to get that amount.

Q. That is, so many pounds of it? A. Yes, sir.

Q. And when it came to you how would you know whether you were getting the quantity that you had ordered?

A. Well, it is generally, the babbitt we used on that, came in little ingots of three pounds, about, nearly three pounds to the ingot.

Q. Then you would know by the number of ingots exactly how much babbitt metal you got? A. Yes.

Q. Well, when you sent for a certain amount of material do you know of any occasion in which you did not get what you asked for? A. No, sir.

Q. Challenge metal is a babbitt metal, isn't it?

A. Yes, it is a friction metal.

Q. That is the kind of metal you used? A. Yes.

Q. Did you work on that job at night-time?

A. Sometime, yes; I can't remember how much.

Q. With reference to the job numbers on your orders for babbitt, would you send the job numbers in yourself? [1068—980]

A. Yes, I would send the job number. I would

(Testimony of James Lewis Chandler.)

get the number from the foreman or assistant.

Q. And when you made your orders—

A. I would tell the helper, one of my men, to get the material, the metal, and charge it to such a number.

Q. Such a job number?

A. Such a job number; to go to the foreman and he would issue the order.

Q. That is, you always, whenever you ordered babbitt metal, gave the job number on which it was to be used?

A. Yes. I could not get it without that.

Q. And when you received it you applied it to the job corresponding to that number; is that it?

A. Yes; that is, as the number was given to me.

Q. Now, have you any recollection as to about how much babbitting metal you used on that particular job? I mean on the "Hilonian" job generally.

A. Do you mean on the whole job?

Q. On the whole job.

A. Yes, I have. It was nearly a ton and a quarter, as I remember. I remember it because I know it was the biggest job that I ever did of that kind.

Q. Well, how was it impressed on your memory?

A. Because it was such a big job, that I remember it; that is all. Because I had used so much babbitt.

Q. Was there anybody else, Mr. Chandler, besides you engaged on this work of babbitting during that period?

A. Yes; there was another mechanic with me one night.

(Testimony of James Lewis Chandler.)

Q. Well, I do not mean with you. I mean in control of it. In other words, you were the man that did the babbitting?

A. I had charge of that; yes.

Q. That is what I mean. A. Yes. [1069—981]

Q. There was nobody else in charge of any babbitting but you, was there?

A. Not on that job; no.

Q. And all the orders for babbitting metal were issued by you? A. By me; yes.

Q. On what other pieces belonging to the "Hilonian" did you use babbitt besides the eccentric straps? A. Besides the straps?

Q. Yes.

A. I did all of the main bearings and caps; all of the spring bearings; the crosshead slippers or shoes; thrust-collars. There might have been a few others that I cannot just recall, but those were the principal ones.

Q. Those were the principal ones? A. Yes.

Q. The parts that you worked upon, what, if anything, can you say with reference to them having been apportioned to the machinery of the "Hilonian," whether it belonged to the "Hilonian" or not; that is what I mean.

A. Well, it belonged to the "Hilonian," the numbers that were given to me.

Q. Well, the parts themselves, were they, as a rule, new or old parts?

A. Well, the main bearings were new, bronzed, tinned and babbitted; they were new.

(Testimony of James Lewis Chandler.)

Q. Well, the rest of the material, the rest of the parts of the machinery, whether new or old?

A. Old, as I remember it. The thrust-collars, I do not know. It seems to me that she got new thrust-collars; I am not positive.

Mr. McCLANAHAN.—No cross-examination.

(An adjournment was here taken until to-morrow, Wednesday, September 20th, at 10 A. M.) [1070—982]

Wednesday, September 20th, 1911.

[**Testimony of James Robert Christy, for Libelant.**]

JAMES ROBERT CHRISTY, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Christy, you are connected with the United Engineering Works?

A. I am.

Q. In what capacity? A. Manager.

Q. Do you know Captain Saunders of the Matson Navigation Company? A. Yes, sir, I do.

Q. Known him for some time? A. Yes, sir.

Q. Have you done work for the Matson Navigation Company for some years previous to this work on the “Hilonian” that is now in question?

A. I have.

Q. In what capacity have you dealt with Captain Saunders on those previous occasions?

Mr. McCLANAHAN.—I object to the question as immaterial.

A. As port captain.

Mr. FRANK.—Q. With respect to his having or-

(Testimony of James Robert Christy.)

dered work done for the Matson Navigation Company that was accepted by the company during that term. What can you say as to that, whether he has or not?

Mr. McCLANAHAN.—I object to the question as immaterial.

A. He has been regarded by me as their representative, as I have taken his orders and done work under his orders.

Mr. FRANK.—Q. And the work has been accepted and paid for?

A. Always been accepted and satisfactory.

Q. On the occasion of the "Hilonian" coming over to the works for the purposes of the work that is here in question, did you have any conversation with Captain Saunders with respect to [1071—983] the authority of Klitgard and Putzar upon this job?

A. I did.

Q. What was it?

A. Upon the arrival of the ship at our yard I asked Captain Saunders, "Who is to have charge of this work?" Captain Saunders replied, "Mr. Klitgard and Mr. Putzar. Mr. Putzar will be an adviser, and what Mr. Putzar advises we will do."

Q. Do you remember the occasion when the vessel was put upon the dock over there? A. I do.

Q. What was the purpose of putting her on the dock originally?

A. Her tail-shaft was to be drawn, and her stern-bearing lined.

Q. After she got on the dock what if anything oc-

(Testimony of James Robert Christy.)

curred to detain her on the dock?

A. Upon the completion of this work it was discovered by the Matson representatives, that there was some additional work required to her rudder, and the ship was detained on the dock until they reached a decision what would be done with this work, and it was decided by their representatives, to go on with this work, and the ship naturally must be held on the dock to do this work.

Q. What was the nature of that work?

A. The rudder, bushings and gudgeons were in bad condition. It was decided to lift the rudder and reline the gudgeons and pintles. At the same time they were detained in cleaning out the inner bottom. They have found to make such repairs as they wished on the inner bottom it was necessary to remove the accumulation of asphaltum out of this inner bottom, and steam-pipes were led from the dock and holes cut in the bottom of the ship to boil out this asphaltum and get it out of her tanks. There was considerable accumulation of asphaltum in the bottom [1072—984] of her tanks, and it was necessary for it to be removed before the work inside could be completed. That also occupied time on the dock.

Q. Outside of the time actually employed in doing this extra work, I understand she was delayed during the time that they were consulting, to know whether or not they could do it; is that it?

A. Yes, sir; they held the ship there while they were discussing the advisability or the necessity of effecting these repairs, and after reaching a con-

(Testimony of James Robert Christy.)

clusion the work was then carried on and done.

Q. By "they," who do you mean?

A. By the Matson's representatives.

Cross-examination.

Mr. McCLANAHAN.—Q. I understand that you have stated that it was necessary to dock the ship for the purpose of drawing the tail-shaft and re-wooding the liner of the stern-frame; is that correct?

A. I have stated it was necessary to dock the ship to remove the tail-shaft and reline the stern-bearing.

Q. Necessary because of what?

A. The stern-bearing had become worn and allowed the shaft to sag on its after end.

Q. How did you know that?

A. By the sound of the shaft when it was running. That would determine that point.

Q. How did you know it?

A. By the orders from the Matson Company that this work was necessary to be done.

Q. What shape did that order take? What form did it take?

A. To dock the ship and reline the stern-bearing.

Q. I hand you Respondent Siversen Exhibit "A"; is that not the specification for the doing of that work? A. I could not tell you. [1073—985]

Q. Look at it first, please.

Mr. FRANK.—Q. What do you mean "you could not tell"?

Mr. McCLANAHAN.—Just a moment, Mr.

(Testimony of James Robert Christy.)

Frank; I am cross-examining the witness.

Mr. FRANK.—You are asking him to examine a paper. I have a perfect right to examine him on the question of his knowledge concerning the paper; he cannot refresh his memory about something he does not know anything about.

Mr. McCLANAHAN.—I am not asking him to refresh his memory. I am asking if that is not the paper for the order to do that work.

Mr. FRANK.—Q. Have you ever seen that paper before?

Mr. McCLANAHAN.—I object to Mr. Frank interrupting my cross-examination.

Mr. FRANK.—Q. Answer the question.

A. Not to my knowledge; this particular paper I have never seen.

Q. Or a similar one of which that is a copy?

Mr. McCLANAHAN.—I still object to Mr. Frank interrupting my cross-examination.

A. I have seen a specification, but I do not know that this is a copy of it.

Mr. FRANK.—I object to the examination of the witness on the paper in question.

Mr. McCLANAHAN.—Q. Now, answer my question, Mr. Christy, please.

A. I have not been able to find anything in here so far as I have read that bears on the question at point. It may be in here but there is a great deal of it.

Q. Please read it.

A. I am endeavoring to. There is a mention in

(Testimony of James Robert Christy.)

here of lining the tail-shaft, rewooding it, it is [1074—986] termed here. Is that an answer? I read a portion here that refers to that particular.

Q. What about the tail-shaft being drawn? That would necessitate the drawing of the tail-shaft?

A. Yes, sir.

Q. Answer my question. A. In what way?

Q. My question was, is not that paper a copy of the order under which the work was done?

A. It is not a copy of the work that was done on the ship; no.

Q. Is it a copy of the order for the work?

A. This specification does not call or refer to the work that was done on the after-end of that ship regarding her rudder and her pintles.

Q. Will you please answer my question which refers solely to the tail-shaft being drawn, and the rewooding of the bearing? Is that not the order which you referred to coming from the Matson Navigation Company for the doing of that work?

A. This specification states that the tail-shaft shall be drawn. If this is an order from the Matson Navigation Company to draw her tail-shaft that could cover that particular item of drawing her tail-shaft.

Q. I use the word "order" in the sense of "warrant"; is that not the warrant for your doing the work, that paper which you are examining?

A. I should not consider it so; no.

Q. Do you find anything on that paper with reference to the docking of the "Hilonian" for the purpose of cleaning and painting?

(Testimony of James Robert Christy.)

A. It says, "The ship will be docked and stern-bearing rewooded while tail-shaft is drawn." You will understand in connection with that, to draw her tail-shaft is one [1075—987] thing, to paint the ship is another. The docking and painting of the ship would require one day's docking.

Q. Mr. Christy, when the "Hilonian" was first brought to the shop or works of the United Engineering Works, did you not then know that the "Hilonian" was going to be docked?

A. I knew that the "Hilonian" would be docked.

Q. How did you know it?

A. Because she was to be cleaned and painted.

Q. How did you know that?

A. I had discussed the matter with the representatives of the Matson Navigation Company.

Q. And what did this discussion of the matter lead to?

A. It led to docking and painting the ship; also drawing her tail-shaft.

Q. Did this discussion of the matter not lead to the entering into of a contract for that purpose?

A. Not to my knowledge.

Q. Don't you know that when the "Hilonian" went to your works that she went there under a contract to do certain repairs including the work which you have testified to, namely, the drawing of the tail-shaft, the rewooding of the bearing and painting and docking of the ship?

Mr. FRANK.—I object to that; that is calling for the witness to testify as to a conclusion of law, as to

(Testimony of James Robert Christy.)

what is a contract and what is not a contract.

Mr. McCLANAHAN.—Q. Answer the question, please, Mr. Christy.

A. Am I expected to answer that question?

Mr. FRANK.—We have not got any Court here to decide it, so under those circumstances I presume you will have to do the best you can subject to my objection. [1076—988]

Mr. McCLANAHAN.—Mr. Reporter, read the question to Mr. Christy so that he can understand it thoroughly.

(The Reporter reads the question.)

A. I can answer that in this way: that when the “Hilonian” went to the yard of the United Engineering Works, the Matson Company had contemplated making certain repairs to their ship and they had outlined that in the form of a specification, what they had contemplated doing. As this work progressed it was found that some of this work had to be different from the original plan. Among that work that was not different was the cleaning of the ship’s bottom and drawing of her tail-shaft; and to cite some of the additional work that it was found necessary to do I would call attention to the fact that while the ship was in the dock additional work was found on her bottom, her rudder, and after a discussion with the Matson people they decided to hold the ship on the dock until they reached a conclusion whether to do this work or not. They finally decided and ordered this work done.

Q. Now, will you please answer my question?

(Testimony of James Robert Christy.)

A. Is that not an answer to your question?

Q. It is not, sir. Were you not under contract with the Matson Navigation Company at the time that the "Hilonian" first went to your yards to do certain repairs on that ship?

Mr. FRANK.—Now, I object to this not only on the ground that it is calling for a conclusion of law of the witness, but also that he has fully answered it by stating the facts concerning it, if there was such a thing as that, and the Court will determine whether or not any contract existed between the parties.
[1077—989]

Mr. McCLANAHAN.—Q. Answer the question.

A. Am I compelled to further answer this question, to go into more details, or what is wanted? I think I have covered the ground fully in what I have stated.

Q. Please answer the question.

Mr. FRANK.—Q. If you have answered the question, Mr. Christy, in the best way you know how, that, of course, is all that can be expected of you; it is for you to determine.

The WITNESS.—I consider that I have given an answer to the question.

Mr. McCLANAHAN.—Q. You consider that you have answered yes or no to the question as to whether you were under a contract to perform certain work on the "Hilonian" when she first went there?

Mr. FRANK.—If it comes down to that, I think I shall have to instruct the witness that he need not answer that question yes or no, or in the form it is

(Testimony of James Robert Christy.)

put unless so instructed to do by the Court. The proper manner to examine the witness on the question is to ask what was done and what was said by the different parties, and the Court will determine whether there was a contract or no contract. Every piece of work may be a contract in one sense or another.

Mr. McCLANAHAN.—I object to your enlarging the record by your arguments. I do not object to your making your objections, of course, but to argue the objection is enlarging the record, and unnecessary.

Mr. FRANK.—I think your interposition enlarged the record. I have a perfect right to make my objection so that it will be complete, full and intelligible. [1078—990]

Mr. McCLANAHAN.—Q. Mr. Christy, I do not want to be technical in asking you this question; perhaps I had better eliminate from it the words yes or no, and ask you if you consider you have answered my question as to whether or not there was a contract between you and the Matson people to do work on the ship “Hilonian” when she first went to your dock.

A. I consider my answer is an answer to your question.

Q. Let me ask you another question, then. Were you not, Mr. Christy, under a written contract to do certain work on the “Hilonian” when she first went to your yard?

Mr. FRANK.—I object to that as asking for a con-

(Testimony of James Robert Christy.)

clusion of the witness, and instruct the witness he need not answer the question in that form unless ordered to do so by the Court. If there was a written contract, it should be produced, and it will speak for itself.

Mr. McCLANAHAN.—You have instructed the witness not to answer?

Mr. FRANK.—Just read the instruction, Mr. Reporter. That is what I have done.

(The Reporter reads from his notes.)

Mr. McCLANAHAN.—Q. Mr. Christy, do you decline to answer?

A. I shall follow the advice of Mr. Frank.

Q. You, Mr. Christy, are one of the owners of the United Engineering Works, are you not?

A. I am.

Q. Do you not know, Mr. Christy, that your concern bid on certain repair work to be done on the “Hilonian”? Answer that question, please.

Mr. FRANK.—If they did, produce the bid. The bid is the best evidence, and I object to the question.

Mr. McCLANAHAN.—Q. Answer the question, Mr. Christy. [1079—991]

A. (Addressing Mr. Frank.) Do I understand by that that I am not to answer any question?

Mr. FRANK.—No, I do not instruct you that.

A. I know that the United Engineering Works submitted figures for doing certain work on the steamer “Hilonian.”

Q. Who is Mr. H. Gray?

A. Mr. H. P. Gray is Secretary.

(Testimony of James Robert Christy.)

Q. I hand you a letter dated July 27th, 1909, addressed to the Matson Navigation Company and signed "United Engineering Works, per H. P. Gray," and ask you if that is not the written bid that you referred to for work to be done on the "Hilonian."

A. I see a note on here saying, "Rejected see bid Aug. 2nd, '09." Evidently from that I should judge there have been other bids.

Q. That, however, is authentic as a bid, is it not?

A. That is Mr. Gray's signature.

Q. Did you not know of that bid at the time it was made? A. I did not.

Q. You did not?

A. No, sir. Mr. Gray often submits figuring without my knowing anything about it.

Mr. McCLANAHAN.—We offer the letter in evidence and ask that it be marked Respondent's Exhibit Christy "A."

(The letter is marked Repondent's Exhibit Christy "A.")

The WITNESS.—That is Mr. Gray's signature all right. He signed it.

Mr. McCLANAHAN.—Q. You say that is Mr. Gray's signature. That is your letterhead too, is it not?

A. Yes, sir. I am on the other side of the bay most of the time at the shipyard. Mr. Gray is in our city office.

Mr. McCLANAHAN.—I will read this letter in evidence.

(Testimony of James Robert Christy.)

“San Francisco, Cal., July 27, 1909.

Matson Navigation Co.,

Gentlemen,— [1080—992]

Repairs to Str. ‘Hilonian.’

We hereby respectfully submit a figure of Eleven Thousand Nine Hundred Ninety-nine (\$1199.00) Dollars the repairs to the above Steamer, all to be in stricly Accordance with the specifications and further we guarantee to finish the work therein specified in twenty-five Calender days from the date of delivery of vessel at our yard.

Respectfully submitted,

UNITED ENGINEERING WORKS,

per H. P. GRAY.”

And in pencil underneath the closing of the letter is the following: “Rejected see bid Aug. 2nd, '09.”

Mr. FRANK.—Q. Do you know in whose handwriting the lead pencil is in there, Mr. Christy? (Addressing counsel.) Perhaps you know, Mr. McClanahan?

Mr. McCLANAHAN.—No, I do not.

Mr. FRANK.—It comes from your client, so it is certainly not ours.

A. It is not in anybody’s hand, that I know.

Mr. FRANK.—Of course that portion of it cannot be read in evidence unless it is proved.

Mr. McCLANAHAN.—I shall prove that later on.

Q. I hand you, now, a letter written on your letter-head, dated August 2, 1909, addressed to the Matson Navigation Company, and signed “United Engineering Works, Per H. P. Gray, Sect.” and ask you if

(Testimony of James Robert Christy.)

that is not a bid for the repair work on the steamer "Hilonian" made by your company.

Mr. FRANK.—I object to that. The paper speaks for itself for what it is. The witness may testify as to whether that is executed by his company or something of that sort, but his construction of what it is is something for the Court.

A. I can only identify this as a letter from the United Engineering [1081—993] Works, signed by Mr. Gray.

Q. Signed by Mr. Gray, who had authority to sign it? A. Mr. Gray is secretary of the company.

Q. He had authority to sign it?

A. Mr. Gray has authority that goes with the secretary.

Q. Did he have authority to sign that letter?

A. He probably had no particular authority conferred on him in regard to this letter, but he is secretary of the company and as such has a right to sign the papers that come from our office.

Q. Has not Mr. Gray authority to make bids for work to be performed by your concern?

Mr. FRANK.—I object to that. In the first place, making contracts is not an authority which is conferred by the office of secretary per se, and to that extent the document is immaterial, unless some resolution by the company or some special authority is conferred on him for that purpose. The conclusion of the witness as to his authority would not be competent.

Mr. McCLANAHAN.—Q. Answer the question,

(Testimony of James Robert Christy.)

please; do you know what it is, Mr. Christy?

A. I would like to have your question repeated.

Q. Please read the question, Mr. Reporter.

(The Reporter reads the question.)

A. In connection with that I can state that when we submit a bid to the United States Government, it is necessary for us to pass a resolution authorizing the person doing so to sign that contract or sign that bid. There was no special power imparted to Mr. Gray to enter into any particular contract of this nature, that I know of.

Q. When you submit bids for work who signs the submission? [1082—994]

A. With the United States Government usually the President of the company.

Q. Let us eliminate the Government from this case.

A. I cite that as I understand that is the legal form.

Q. Let us eliminate the Government. Who signs the bids when they are submitted?

A. The secretary or president.

Q. Is your company a corporation?

A. Yes, sir.

Q. Who are the principal stockholders?

Mr. FRANK.—That is immaterial, who the stockholders are of the corporation. A stockholder has no authority to do anything in a corporation as a stockholder. It is only the officers elected by the stockholders.

Mr. McCLANAHAN.—Q. Answer the question.

A. Mr. Eva, Mr. Gray and Mr. Christy.

(Testimony of James Robert Christy.)

Mr. McCLANAHAN.—I offer the letter identified by the witness in evidence, and ask to have it marked Respondent's Exhibit Christy "B" and shall read it in evidence.

Mr. FRANK.—I object to it upon the ground it is not proven it is the act of the corporation.

Mr. McCLANAHAN:

“San Francisco, Cal., August 2, 1909.
Matson Navigation Co.,
Gentlemen,—

Sub.—Repairs 'Hilonian.'

We hereby respectfully submit a figure of Eleven Thousand Seven Hundred Forty-nine (\$11,749.00) Dollars on the repairs to the above steamer, all to be in strict accordance with the specifications and further we guarantee to finish the work therein specified in Twenty-five (25) Calendar days from the date of delivery of vessel at our yard.

Respectfully submitted, [1083—995]

UNITED ENGINEERING WORKS,

Per H. P. GRAY, Sect.”

Underneath the closing of the letter there is written in pencil—

Mr. FRANK.—We object to the writing on this on the ground that it is not the act of this corporation or anyone authorized by it to make any addenda to any writing of the corporation. Furthermore, it is a self-serving entry made by the respondent itself.

Mr. McCLANAHAN.—“This bid submitted on acc. of it being worth \$250.00 to have vessel at U E

(Testimony of James Robert Christy.)

Wks to complete work already contracted for in the shape of retubing Donkey-Boiler, retubing Howden system etc. Per Capt. Saunders."

Mr. FRANK.—"Per Capt. Saunders" is the signature, is it not?

Mr. McCLANAHAN.—I don't know.

Mr. FRANK.—Yes.

Mr. McCLANAHAN.—I object to the statement being made that it is the signature—

Mr. FRANK.—Put the whole in; put the dashes in.

Mr. McCLANAHAN.—Mr. Bennett will see to that.

Q. Mr. Christy, do you not know that this bid which I have just read into the record, of August 22d, 1909, was accepted by the Matson Navigation Company?

Mr. FRANK.—I object to that. If they made any acceptance of that bid it is in writing and the writing should be produced and is the best evidence.

Mr. McCLANAHAN.—Answer the question, Mr. Christy.

Mr. FRANK.—I further object to it on the ground that it is asking the witness for a conclusion of law; if it was accepted then what was said between the parties is the evidence [1084—996] of the acceptance and any conclusion that this witness may draw respecting it is not binding on the libelant.

Mr. McCLANAHAN.—Answer the question, Mr. Christy.

The WITNESS.—Am I to answer his question?

(Testimony of James Robert Christy.)

Mr. FRANK.—Go on and do the best you can.

A. My knowledge regarding the work on the “Hilonian” consists of the fact that I was instructed that the ship was coming to our yard to be repaired.

Mr. McCLANAHAN.—Q. Mr. Christy, do you not know that this bid of August 2d was accepted by the Matson Navigation Company?

Mr. FRANK.—The same objection as before.

A. I consider that I have answered the question, Mr. McClanahan.

Q. Do you decline to answer it further?

A. No, sir.

Mr. FRANK.—That is not a fair question to put to the witness.

Mr. McCLANAHAN.—Q. Mr. Christy, if you consider that you have answered it, I must confess that I do not understand that you have answered it; my question is a very simple one. It can be answered yes or no and you can make all the explanations after you have answered yes or no that you wish. Now, will you please answer the question yes or no—was that bid accepted by the Matson Navigation Company?

Mr. FRANK.—How can you affirm that the witness can answer that yes or no when he has already stated he has no knowledge on the subject, that all he knows is according to his answer, “my knowledge regarding the work on the ‘Hilonian’ consists of the fact that I was instructed the ship was coming to our yard to be repaired”? [1085—997]

A. That is the only answer I can give you, Mr.

(Testimony of James Robert Christy.)

McClanahan. I know of no acceptance of any contract by the Matson Navigation Company. Personally, I had no dealing with them on this subject whatever.

Q. But irrespective of whether you had dealings with them or not, do you not know that that bid was accepted?

A. I do not. I know of no acceptance of it. I should like to explain that first of all. The question is this: I do not know that that is a bid. I simply see a letter written and signed by Mr. Gray, and I do not know that Mr. Gray entered into any contract, of my own knowledge, with the Matson Navigation Company, or that the United Engineering Works entered into any contract. [1086—998]

Q. When you say of your own knowledge you do not know that this bid was accepted by the Matson Navigation Company—

A. (Intg.) I did not refer to it as a bid. I refer to it as a letter signed by Mr. Gray.

Q. When you say that of your own knowledge you do not know that this bid was accepted by the Matson Navigation Company, do you mean to carry the inference that you know through hearsay from either Mr. Eva or Mr. Gray that it was accepted?

A. No, sir. I answered that question before when I started. I said, if you will look at the record, that my knowledge consisted that I was instructed that the ship was coming to our yards for repairs, and that is the extent of my knowledge in connection with the matter.

(Testimony of James Robert Christy.)

Q. Did Mr. Gray never tell you that this bid of August 2 had been accepted?

A. The only answer I can give to you to that question is that I was instructed that the ship was coming to our yards for repairs.

Q. Did you not take that then as a statement to the effect that the bid had been accepted, and did you not know from that statement that the bid had been accepted?

Mr. FRANK.—I object to that as trying to compel the witness to draw a conclusion from an assumed statement of facts. Whatever passed between him and these parties you are perfectly welcome to, but any conclusion that the witness may form is not competent evidence at all. I will state to you, Mr. McClanahan, that we have no objection to all the facts connected with this transaction being placed on the record fully and fairly. We do object, however, to your attempting to place a construction upon these facts and [1087—999] compel the witness to accept that construction; he had nothing to do with the details of it at all.

Mr. McCLANAHAN.—I do not know that it would make any difference whether you objected to our getting the facts in this case in the record or not, they are going to be gotten in, whether you object or not.

Q. Will you please answer the question?

Mr. FRANK.—It is not necessary to say that, because if you did not put them in I would put them in myself, but I propose to see that they are put in in proper shape and not in improper shape.

(Testimony of James Robert Christy.)

Mr. McCLANAHAN.—Q. Answer the question.

A. Kindly repeat the question again.

(The last question repeated by the reporter.)

Mr. FRANK.—The witness has not said that he knew that the bid was made yet, that any bid was made.

A. I think that the question is put in such a way it is trying to make me say something that is not the fact, and I decline to answer that question.

Mr. McCLANAHAN.—Q. What is it that I am trying to make you say?

A. You are trying to make me say that there was a contract between our firm and the Matson Navigation Company. I know nothing of the contract between the United Engineering Works and the Matson Navigation Company.

Q. I will not be technical with you; call it a bid or letter or anything else, this letter of August 2; was it not known to you by this statement, that the “Hilonian” was coming to your works, that this proposition contained in this letter of August 2 had been accepted? [1088—1000]

Mr. FRANK.—We object to that on the same grounds as heretofore stated, as being an attempt to make the witness decide what is an acceptance and what is not an acceptance. Get what you think or construe to be an acceptance placed upon the record and the court will determine whether it is an acceptance or not.

Mr. McCLANAHAN.—Q. Answer the question.

A. I consider I have answered that question.

(Testimony of James Robert Christy.)

Q. Mr. Christy, did you not know that this offer which I have called a bid of August 2 was prepared by your company with the knowledge that the specifications referred to therein had been submitted for competitive bids to various shops in this city?

Mr. FRANK.—Q. That is of your own knowledge, Mr. Christy. The rumors are not part of it.

A. No, sir, I do not know that.

Mr. McCLANAHAN.—Q. Did you hear that it was either from Mr. Eva or Mr. Gray?

Mr. FRANK.—I object to that as calling for hearsay.

A. To the best of my knowledge, I do not think I discussed that job with Mr. Eva or Mr. Gray. I may have heard rumors around the yard that the “Hilonian” was considering some repairs. The matter of the “Hilonian,” I have had very little to do with her repairs previous to this time.

Mr. McCLANAHAN.—Q. Will you please produce, Mr. Christy, the specifications referred to in the letter of August 2, 1909?

A. I have not them. I cannot produce them.

Mr. McCLANAHAN.—I would like to have your company produce them.

Mr. FRANK.—Well, call on the company, the proper officer of the company, and if he has them, I will produce them. [1089—1001]

Mr. McCLANAHAN.—Mr. Frank, I have called upon you on several occasions for this specification, two that I remember, and you have said that you would produce them.

(Testimony of James Robert Christy.)

Mr. FRANK.—Very well.

Mr. McCLANAHAN.—And I have not seen them yet. I would like to have those specifications produced so that I may continue my examination of the witness. I do not see how I can continue the examination without them.

Mr. FRANK.—I will have to consult with the people who have the custody of the specifications mentioned in that and get them; that is all.

Mr. McCLANAHAN.—Shall we adjourn?

Mr. FRANK.—I have seen copies of specifications just the same as you have produced here in Siversen's testimony which are not the papers. They seem to differ, a good many of them.

Mr. McCLANAHAN.—If you will admit that Respondent Siversen's Exhibit "A" is a copy of the specifications referred to in the letter of August 2, I will be content.

Mr. FRANK.—I cannot admit it because I do not know that those are a true copy of the specifications that were referred to there. I have compared it with some papers that I had handed to me as other copies, and it is not the same.

Mr. McCLANAHAN.—I will then have to defer my cross-examination until you produce the papers.

Mr. FRANK.—All right.

Mr. McCLANAHAN.—When can you have them?

Mr. FRANK.—Possibly this afternoon. I will try to get hold of them. [1090—1002]

Mr. McCLANAHAN.—Then we can take another witness and excuse Mr. Christy until 2 o'clock.

(Testimony of L. W. Musgrave.)

Mr. FRANK.—Very well.

[Testimony of L. W. Musgrave, for Libelant.]

I. W. MUSGRAVE, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Musgrave, you are the dock master over at the United Engineering Works?

A. Yes, sir.

Q. And as such keep a record of the docking of vessels, the length of time they are on the dock?

A. Yes, sir.

Q. And the material used?

A. Only in my department.

Q. In your department? A. That is all.

Q. That is painting? A. Painting.

Q. I show you what purports to be such a record marked "Dock Master's Record United Engineering Works," page 130, and ask you if this is made by you. A. That is the original carbon copy, yes.

Q. Of the record? A. Yes, sir.

Q. Made at the time that the vessel was on the dock?

A. Made at the time the vessel went off the dock.

Q. Under the heading of "Date" on that record, what does September 10 stand for?

A. The date that she went on.

Q. And what does September 16 stand for?

A. The day that she came off.

Q. And under the heading of "Docked P. M.," what does "1" stand for? A. 1 o'clock P. M.

Q. And "launched" under "1 P. M."?

A. 1 o'clock.

Q. And under the heading of "No. of days"?

(Testimony of L. W. Musgrave.)

A. 6 days, and nights is marked in 4. [1091—1003]

Q. And “nights”—4 nights?

A. Yes. Of course that does not include all the nights that she was on the dock; that simply includes the nights she was worked on on the dock.

Q. I see up on the corner here the word “tons,” “2654.” A. 2654 tons.

Q. What is that? A. Gross tons.

Q. Of what?

A. That is her gross tons. I think that is cubic contents; we allow 100 cubic feet per gross ton. I may not be correct in that statement, but I think that is what it is; that is supposed to be her gross, her registered gross tonnage.

Q. Of the steamer “Hilonian”?

A. Of the “Hilonian,” yes.

Q. What is the other record there under the head of “remarks”?

A. That is, “to cleaning and painting two coats, 87 gallons Bredell’s priming.”

Mr. McCLANAHAN.—Mr. Frank, are you going to introduce that in evidence?

Mr. FRANK.—I do not want to ask them to leave it here, so I am getting it in this way.

Mr. McCLANAHAN.—Are you getting it in this way?

Mr. FRANK.—Yes.

Mr. McCLANAHAN.—I was waiting for you to offer it. I object to all this line of examination on the ground that it is immaterial, irrelevant, in-

(Testimony of L. W. Musgrave.)

competent, self-serving, hearsay, not binding on the respondent, and ask that my objection apply to all these preliminary questions which were simply preliminary as I thought to introducing the document in evidence. That was the reason my objection was not made sooner.

A. "To cleaning and painting two coats, 87 gallons of Bredell's [1092—1004] priming, 77 gallons of Bredell's fouling."

Mr. FRANK.—Q. What is the rest of that record?

A. There was cement used around the hub, 50 pounds, I think. That is omitted there. That is on Mr. Roberts' stock record.

Q. What is the bottom?

A. That is cementing; that was to be the cementing in the wheel, three hours for two men. That is on the time-cards, included in the time-cards.

Q. It is included in their time-cards? A. Yes.

Q. You made that record yourself, did you?

A. I made that record myself.

Q. At the time you made it, the facts therein stated, state whether or not you knew them to be true or not? A. They were correct.

Q. They are correct? A. Yes.

Q. It is your business to—

A. (Contg.) To see that they are correct.

Q. To see that they are correct? A. Yes, sir.

Q. You watch the time when they go on the dock?

A. I watch the time and hour they go on the dock and the docking tag is made up from that, and the

(Testimony of L. W. Musgrave.)

bills are all charged from that.

Q. In regard to the materials used; is that a part of your business, to keep a record of that?

A. I look after the quantity of material used in painting.

Cross-examination.

Mr. McCLANAHAN.—Q. You have charge of the painting and cleaning of the ship, do you, Mr. Musgrave? A. Yes, sir.

Q. That is you know the number of men that you put on it and the number of hours it takes to do the work?

A. No, I do not. I do not keep the men's time. The men keep a [1093—1005] record of their own time; each day they put in a time-card of the number of hours they work on it.

Q. Don't you know the value of it?

A. Only when I estimate on it.

Q. I show you Libelant's Exhibit, Schedule 1, attached to the libel, and call your attention to the item reading "cleaning and painting, 2 coats, \$246." Is that a fair and reasonable figure for that—

A. (Intg.) I presume it is, otherwise—

Q. Let me finish my question. Is that a fair and reasonable figure for the painting and cleaning, the two coats, of that ship?

A. I should say it was a small figure for it.

Q. Small figure for it? A. Yes, sir.

Q. You refer simply to the labor, don't you?

A. Just let me see that again there; cleaning and painting, two coats—yes, it would be a small figure.

(Testimony of L. W. Musgrave.)

Q. For the labor? A. For the labor.

Q. A small figure would be a reasonable figure?

A. It would be a reasonable figure, yes.

Q. Where did you get the paint that goes on to the job?

A. Well, it depends on each job; some people furnish—there is different paint companies furnish the paint; of course it depends on whose paint is used; that is Bredell's; that is furnished by the Bredell Paint Company.

Q. Furnished to who? To you?

A. Sent over to the work to be put on the ship; yes, they send the paint across.

Q. Do you remember their sending this paint over? A. Yes, they sent the paint over.

Q. Do you keep a stock of Bredell's paint on hand? A. Usually a little. [1094—1006]

Q. Do you remember whether this was sent over or taken from the stock?

A. I do not remember whether it was sent over or taken from the stock. It is sent over there to use on their jobs.

Q. On their jobs? A. Yes, sir.

Q. What track do you keep of this paint?

A. I see it opened, I see the paint used, and I see what is left over; what is left over is measured.

Q. With reference to your duties connected with the United Engineering Works, what do you do? Do you make any report to them of the paint used?

A. Only this report is sent in, and it is charged from that.

(Testimony of L. W. Musgrave.)

Q. This here (pointing). A. Yes.

Q. The bill is charged from that? A. Yes.

Q. You know nothing about the charging?

A. I know nothing about the charging.

Q. Do you remember this painting job?

A. Yes, I remember it.

Q. Do you remember how long it took to paint and clean that ship?

A. No, I could not tell you exactly how long it took; I suppose it would take in the neighborhood of a day and a half or two days to do the job.

Q. Putting on two coats?

A. Putting on two coats.

Q. That would be a reasonable time, would it?

A. A reasonable time.

Q. A day and a half or two days. A. Two days.

Q. That would be a reasonable time?

A. That would be a reasonable time, yes.

Q. You don't know anything about any other work done on the ship, do you, other than the painting and cleaning?

A. It was out of my department altogether. The only thing that I [1095—1007] am looking out for is to see when the work is done to get my dock clear; that is the only thing I look out for, see when it is going to be done, to get the dock clear.

Q. You remember this job? A. I remember it.

Q. Do you remember whether any other ships were waiting to be docked at that time?

A. Yes, there were.

Q. What were they?

(Testimony of L. W. Musgrave.)

A. One was the "Ranger."

Q. The tug.

A. The tug "Ranger" had been waiting there, I should say, several days, I do not remember how long without looking at my records. There was other ships waiting there too.

Q. What other ships?

A. I could not tell you without looking the records up.

Q. Where are your records?

A. In Oakland or Alameda, over at the office.

Q. I would like to have you look them up. Isn't this a record on the table that you have read from?

A. Take the following vessels. The tug "Ranger" was the following one.

Q. When was the tug "Ranger" docked?

A. The same day that this one went off, I believe, the 16th, at 3 P. M., two hours after the "Hilonian" went overboard.

Q. I must confess that I cannot make out that "16."

A. She was on two days; she went off the 18th. That would leave it the 16th, and the next vessel went on on the 18th.

Q. Where are the originals of this book?

A. The originals are what are sent over for the charges to be made from; Mr. Curtis, I believe, receives those originals and the charges on the bills are made from them. [1096—1008]

Q. What was the next steamer that went on after

(Testimony of L. W. Musgrave.)

the tug "Ranger"? A. The "Thomas L. Wand."

(A recess was taken until 2 P. M.) [1097—1009]

AFTERNOON SESSION.

Mr. McCLANAHAN.—Mr. Frank, have you secured the specifications?

A. I have a set of specifications here that comes with our records. Whether or *not* is the particular specifications referred to in those letters I am unable to say.

Mr. McCLANAHAN.—Is there no one that can enlighten us on that? A. Not that I know of.

[Testimony of James R. Christy, for Libelant (Recalled).]

JAMES R. CHRISTY, cross-examination resumed.

Mr. McCLANAHAN.—Q. Mr. Christy, your counsel has produced the copy of specifications headed "Specifications for repairs to S. S. 'Hilonian.'" I see on the copy produced on the second line of the first specification, that the word "air" has been inserted in pencil. I see on the fourth line of the second specification that the word "only" has been bracketed in pencil and underscored in pencil. I see on the first line of the seventh specification that the word "finished" is bracketed in pencil. I see on the last line of the seventh specification the added words in pencil "no less." I see on the fifth line from the bottom of the ninth specification that the word "shaft" in two places has been bracketed in pencil. Do you know anything about those

(Testimony of James R. Christy.)

pencil marks? A. Absolutely nothing.

Mr. McCLANAHAN.—We offer in evidence the specifications for repairs to S. S. “Hilonian” produced by the libelant, and ask that it be marked “Respondent Exhibit Christy No. 6.”

Mr. FRANK.—We object to it as incompetent and immaterial.

Mr. McCLANAHAN.—Q. This copy of specifications produced by [1098—1010] your counsel has been seen by you before, has it not?

A. No, sir, it has not.

Q. I am not referring to the physical paper, but to the specifications enumerated there have been seen by you?

A. I could not say. I do not know I have ever seen that specification before.

Q. On your direct examination you referred to the tail-shaft work and rewooding of the stern-bearing. What was the order under which that work was done?

A. When the ship came to our yard, as I explained this morning, I was notified that the “Hilonian” was coming for repairs. That is the order that I received for it.

Q. How did you know that she wanted her tail-shaft drawn? A. There was a list of work.

Q. That is what I want to get at. Was there a list of work furnished you when the ship came to the yard for repairs?

A. A list of work which they proposed to follow, but which in fact they were unable to follow, due

(Testimony of James R. Christy.)

to the fact that they were compelled to make many changes from that list.

Q. Now, will you please produce that list?

A. I have not the list.

Q. Where is it?

A. That is some three years ago since that work was done.

Q. I am asking you where it is. Answer my question, please, Mr. Christy.

A. I have already answered it. I told you I had no list of work now.

Q. You mean to say you do not know where this list of work is?

A. Why, the work was performed and finished and the records were turned in in the form of a completed statement of the work performed on the ship. This list was amended as was found [1099—1011] necessary to depart from the original list.

Q. Do you mean to say that you don't know where that list is?

A. The list would be reproduced in our bill.

Q. Do you mean to say that you don't know where that list is?

A. I mean to say that that list would be in our bill.

Q. I want you to tell me, Mr. Christy, whether you know where that list is now, the original and not the reproduction of it—the original list?

A. I don't know where the original list is now.

Q. Would it not be among the files of your office?

A. No, sir, I could not say; probably a list of that

(Testimony of James R. Christy.)

kind would not be preserved.

Q. That was an important document, was it not?

A. We are doing work of that character every day.

Q. Of what character?

A. Repairing vessels similar to that.

Q. Undoubtedly, but—

A. It goes through our regular routine—

Q. Do you not keep—

Mr. FRANK.—Let him finish his answer.

A. This work goes through our regular routine. The orders go to the foremen in charge of the work, and the foremen carry on the repairs.

Mr. McCLANAHAN.—Q. Do you not keep a record that would contain the specifications of work that you do of this importance?

A. This would be written in the form of a heading for our bill and form of specifications for the work performed on the ship.

Q. I am asking you a question you are not answering.

Mr. FRANK.—He is answering.

Mr. McCLANAHAN.—Q. I am asking you if you keep a record [1100—1012] that would contain work of this character?

A. I should consider the heading of the bill the record that you have in mind.

Q. Is that the only record you keep?

A. That is the only record we keep.

Q. In other words, you destroy the original specifications under which you do work?

A. No, sir; we do not destroy them.

(Testimony of James R. Christy.)

Q. What do you do with them?

A. The specifications of the work would go out to the foremen in the shop; when they got through with them—

Q. Then what becomes of them?

A. They are usually worn out.

Q. They are practically out of existence when the job is finished, the original specifications under which work is done; is that correct?

A. Unless a copy had been made of them.

Q. Do you not always keep a copy in the office?

A. Not always.

Q. Of work of this magnitude, a twelve thousand dollar job?

Mr. FRANK.—The witness has already told you he was the manager over in Alameda, and is not the bookkeeper here.

Mr. McCLANAHAN.—Please do not interject suggestions. Mr. Christy is abundantly able to take care of himself, and my question is proper.

Mr. FRANK.—He certainly is, but I have a perfect right to make my objections as I go along.

Mr. McCLANAHAN.—This is not an objection, but a suggestion.

Mr. FRANK.—It is an objection.

Mr. McCLANAHAN.—I have no objection to your objecting, but do not suggest to the witness.

Mr. FRANK.—I object to you making the statement, for the purposes of the record, that I am suggesting to the witness. [1101—1013] I do nothing of the kind. I am making my objection as I have a

(Testimony of James R. Christy.)

right to do. I take exception to that insinuation or statement that you are making all the time. One would think that you were the only one that had anything to say in the examination being had here.

Mr. McCLANAHAN.—Let us get back and stop our wrangling.

Mr. FRANK.—That is it exactly; do not start it the next time.

Mr. McCLANAHAN.—Read the question to the witness, Mr. Reporter.

(The Reporter reads the question.)

A. As I have already stated, the completed heading of the work performed is a record of that matter.

Q. Now, Mr. Christy, that does not answer my question. If it is not understood by you I want to make it perfectly clear. I understand that ordinarily in work of the magnitude of the work done on the "Hilonian" you were furnished with specifications of that work originally.

Mr. FRANK.—He did not say so.

Mr. McCLANAHAN.—Q. Is that correct, Mr. Christy?

A. We have done very much larger jobs than the "Hilonian's" without a specification.

Q. Ordinarily you are furnished with specifications of work of that magnitude?

A. We are usually furnished with a list of the work to be performed.

Q. We will not quarrel over the terms. I understand that list of work to be performed on the ship is turned over to the foremen of your several de-

(Testimony of James R. Christy.)

partments; is that correct? A. Yes, sir.

Q. Therefore, it necessitated making copies of the list of the [1102—1014] work if you turned over the list of the work to several foremen?

A. Frequently where there is one department that has a very small amount of work to perform that would simply be given that portion of the work that it would have to perform, an extra.

Q. Do you mean to have me understand that when you turned this list of work over to your foremen you keep no duplicate record of the list in the office?

A. I would like to explain to you the principle on which we try to keep a record of the work performed. In most cases of work aboard ship the original scheme of work is very difficult to be followed. In most cases it is impossible to follow it because as the work opens up it presents additional work, modifications of what was proposed to do. In so doing it we have these headings filled out of the actual work performed, and that is the record we try to keep—what is actually performed; not what a man originally proposed to do but what he ultimately is compelled to do through the various differences between the opinion of the man who wrote the specifications before he dismantles an engine and the actual results after it is dismantled.

Q. Have you in mind my question, Mr. Christy?

A. Yes, sir.

Q. Is that your answer to it?

A. That is the explanation of that answer.

Q. Of what answer? A. Of your question.

(Testimony of James R. Christy.)

Q. Am I to understand from that answer, that you do not keep in the office a record of the original specifications or list of work to be performed on a job of this magnitude?

A. We keep a list of the completed work.

Q. And not a record of the original specifications or list of work to be performed?

A. My object is to make a complete record of the finished articles. [1103—1015]

Q. That is not answering my question, Mr. Christy; you may make a complete record of the finished work and all that. I want to know if you keep a copy or a record of the original work before it was changed at all, in your office, or does that die when it passes into the hands of the foremen through use?

A. That depends somewhat on the nature of the job, the size of the job and the character of the job.

Q. I am referring to a job of the size of the "Hilonian."

Mr. FRANK.—I make my objection that it is immaterial whether it is of the size of the "Hilonian" or not. The question is whether or not the record of this particular job was kept. I object to any generalizations that do not appertain to this particular job. The question now is whether the record of this particular job was kept.

Mr. McCLANAHAN.—Q. Answer my question, Mr. Christy.

A. Whether a record of this particular job was kept or not?

Q. Now, you are following Mr. Frank's objection.

(Testimony of James R. Christy.)

Please read the question to the witness, Mr. Reporter.

(The Reporter reads the question.)

A. Personally, I preserved no record of the original work on the "Hilonian." Whether that record has been preserved, I could not tell you, in the city office.

Q. Why do you limit it to yourself? Cannot you testify for the concern of which you are an officer?

A. Not in the city office, no. I am over in the shipyard.

Q. You do not know what they do?

A. I don't know what the practice in the city office is in regard to the filing of such details.

Q. You know such a list is not kept in the files of the office over which you have control? [1104—1016]

A. I know I have preserved no record of the "Hilonian."

Q. And it is not your custom to do so?

A. Not on a job of that character. A job that I personally handle I usually preserve some record of.

Q. And you don't know the custom of the office?

A. I know the custom of the office, but I don't know whether the office has preserved a record of this case. You are asking me to testify to what I know. I am trying to tell you what I know, and not what I do not know.

Q. What is the custom of the office with reference to the preserving of these specifications or lists of work?

(Testimony of James R. Christy.)

A. What is the custom of the office, did you say?

Q. Yes.

Mr. FRANK.—Do you mean the office over here?

Mr. McCLANAHAN.—Yes.

A. I have just told you I am not in touch with the conditions prevailing with the office records on this side.

Q. So you don't know?

A. I don't know what the city office records are.

Q. Or what the custom is?

A. Or what the custom is in regard to filing records.

Q. Of original specifications or lists of work?

A. Yes, sir. That is in the hands of Mr. Eva, who handles our city office.

Q. Do you know whether you receive from the office on this side of the bay the original, or a copy of specifications where work is to be performed on the other side of the bay?

A. I did not in this particular case.

Q. Generally, do you know? Do you know the custom of the office in that respect?

A. The custom of the office would be to make a copy. [1105—1017]

Q. And send you a copy?

A. And furnish me with a copy.

Q. And that copy, according to the custom of your end of the concern is turned over to the foremen and is not preserved, or a copy of it?

A. The orders are entered from this copy.

Q. Answer my question.

(Testimony of James R. Christy.)

Mr. FRANK.—He has answered it.

Mr. McCLANAHAN.—Q. That copy is not preserved by you? A. Not by me.

Q. Or in your end of the concern? A. No, sir.

Q. And you cannot tell me whether Exhibit “C,” which has just been introduced in evidence is the original of the specifications or a list of work to be performed on the “Hilonian”? A. I cannot.

Q. You cannot tell me now whether you received a copy of Exhibit “C”? A. I cannot.

Q. You can tell me, however, that you did receive a copy of the work to be performed on the “Hilonian”?

A. I received a list of work to be performed on the “Hilonian.”

Mr. McCLANAHAN.—I will have to ask you, Mr. Frank, to produce from the records of the office the original of which a copy was made and given to the witness, or else admit that this is such a copy.

Mr. FRANK.—That is the most unique demand I have ever heard of.

Mr. McCLANAHAN.—Are you going to make an objection?

Mr. FRANK.—Yes, I am. You want to demand of me that I make an admission to suit your case; I have no admission to make as to anything except what I know. I have produced what you have asked for, to the best of my knowledge. I have no admission to make of anything that I do not know anything about. [1106—1018]

Mr. McCLANAHAN.—Then I ask you to produce

(Testimony of James R. Christy.)

the original of these specifications or list of work which has been testified to by the witness.

Mr. FRANK.—The witness has already told you they are destroyed. How can I do so.

Mr. McCLANAHAN.—The witness has not testified to that effect. He testified to the effect that the copy he received from the office over here was destroyed. I want the original from which that copy is made.

Mr. FRANK.—I have produced all the papers that I know anything about relating to that matter. I do not see the object of this. If you have the specifications that you claim are a part of that contract or the alleged contract it is in your power to produce them.

Mr. McCLANAHAN.—Q. Do you know a man named Siversen? A. Siversen, yes.

Q. He was an engineer in charge of some of this work, was he not?

A. Yes, sir, he was a foreman in charge of some of it.

Q. Do I understand you to say or to mean that you cannot identify any of the work on this Exhibit "C," as work done on the "Hilonian"?

A. I have not looked at it with that in view because I am not familiar with the specifications of the job, consequently I would not be able to identify it.

Q. Are you an engineer, Mr. Christy?

A. I am.

Q. You have charge of the works, have you not?

(Testimony of James R. Christy.)

A. I am manager of the works, yes.

Q. And you were manager of the works in August and September, 1909? A. I was.

Q. And what do you mean by being manager of the works? [1107—1019]

A. In general charge of the works.

Q. Practical man? A. Yes, sir.

Q. Cannot you tell now by looking at the specifications marked Exhibit "C," whether that work was done on the "Hilonian" or not, examining each item of specification?

A. I have had a man in charge of this work directly, whose duty it is to be in actual touch with every little detail of this work. I appoint some man to take charge of it. The man you just asked me about was one of the men in charge of that work, in detailed charge of the work. It was his duty to follow that specification or any specification submitted to him, and any changes or alterations from it he would discuss with the man in charge of the job and be guided by his directions. He was so ordered by me.

Q. Is it your custom as manager when you see lists of work to be performed, to turn it over to the several foremen without any further examination on your part?

A. I would go through the work with the foreman, discuss the job and instruct him—give him his instructions.

Q. Did you do that with the "Hilonian"?

A. In this case I instructed the man in charge who

(Testimony of James R. Christy.)

he was to receive his orders from and who he was to work under.

Q. Did you go over the work with him?

A. I did not go over the ship with him, no.

Q. Did you go over the specifications with him?

A. I may have gone over the specifications; in a general way, understand, not in any great detail.

Q. Cannot you now examine Exhibit "C," and testify as to whether or not that work was work that you went over with your foremen? [1108—1020]

A. I could not. It is too long ago. I was not enough in detail on the job to impress my mind with those details so that I could identify that as the list of the work.

Q. Do you recognize a difference between contract and time work in your shop?

A. In what way do you mean?

Q. In any way? A. No, sir.

Q. So that when you receive lists of work to be performed from the office over here, you do not know whether it is time or contract work, necessarily?

A. I might know of it being a contract, but it would not go on the orders as a contract. The list of work would be entered on the orders and the work would go into the shop and be handled exactly the same whether a contract or day's work. We make no distinction in the shop in any way; the men know no difference.

Q. So then it would not be unusual for you to have received the list for the work to be done on the "Hilonian" and not know that it was work to be done

(Testimony of James R. Christy.)

under a contract? A. It would not be unusual.

Q. And in this particular case, you did not know it was work to be performed under a contract?

A. I do not know that there was a contract made on the "Hilonian"; I did not know at the time.

Q. Did you know it subsequently?

A. I have heard it discussed. I have heard a number of people state there was a discussion over this matter. You were one of the gentlemen.

Q. While the work was going on? A. No, sir.

Q. You did not know, then, subsequent to the commencement of the work and prior to its completion, that the work was being done under a contract?

A. I did not. [1109—1021]

Q. Do you see to it, is it a part of your business to see to it that all work performed in your department, or in the shops where you have control, is charged for and billed?

A. No, sir; the billing is done in our city office.

Q. How is it done? How do they receive information on which to make out bills?

A. The lists of work are turned in to the city office, and the time on this work is also turned in to the city office, and the lists of material.

Q. In what way? In what shape?

A. In the form of a charging-sheet.

Q. What are those charging-sheets made up from?

A. From the time-cards.

Q. What else? A. The order tags.

Q. That is, the stock cards? A. Yes, sir.

Q. Anything else?

(Testimony of James R. Christy.)

A. That is the original from which all this information comes.

Q. How, when it reaches the office for billing purposes, do they distinguish time from contract work?

A. How do they distinguish it?

Q. Yes. A. You mean in rendering a bill?

Q. Yes.

A. They must have office records of what they have proposed to do.

Q. When you get this original list of work to be performed, has it not any identification mark on it at all? A. No, sir.

Q. Are you sure of that?

A. A list of work would not have any identification mark on it.

Q. Anything accompanying the list of work?

A. No, sir. Our records of that nature are carried in the city office entirely. [1110—1022]

Q. Are you sure of that?

A. That is the practice for our city office to preserve our records there.

Q. Does not this list of work have a job number on it?

A. The job number originates in the shipyard.

Q. As distinguished from the office?

A. The shipyard's practice is to enter an order number for a job, and that is where the men charge their time on an order number so and so.

Q. You say that originates in the shipyard?

A. The office at our yard.

Q. Is that your end of the concern?

(Testimony of James R. Christy.)

A. Yes, sir.

Q. So that the order numbers originate with you?

A. Yes, sir.

Q. You get this original slip of paper from the main office here and place on it the order number?

A. I have an order number placed on the books for that particular job.

Q. Will you please tell me the order number of the "Hilonian" slip that originally came to you from the office?

A. I could not do that. It is three years since that order number was entered.

Q. Didn't you keep a record of that?

A. Certainly, they keep a record.

Q. Where is that record?

A. In the shipyard. Have you not had the order numbers? Do you want to know from memory?

Q. Not from memory.

A. There is no trouble about giving you the numbers of the jobs.

Q. I do not want the numbers of the jobs indiscriminately. I want the original number that was given to the original list of work for the "Hilonian."
[1111—1023]

A. Have you your bills there?

Q. Yes.

A. I think you will find the numbers on the bills, are they not? The practice is to put them right on the bills.

Q. Mine are all in confusion, because you made a mistake when you attached the original exhibits. I had to go up and make recopies. Here is my copy of

(Testimony of James R. Christy.)

the large bill. You remember that, don't you (handing)?

A. Yes, sir. Where would the heading be?

Q. It is a voluminous document?

A. There is so much of it. There is the heading (pointing).

Q. And here is the tail?

A. That may be the only number there. It is usually printed.

You are pointing now to 31814.

A. There is an order number stamped here.

Q. What are you pointing to? A. 5299.

Q. Schedule 2?

A. If you have a pencil memorandum showing Schedule 2 I do not know what it means.

Q. It is a copy of the libel served on us by you.

A. I see.

Q. Schedule 1, which is the large order, you do not see any order number on?

Mr. FRANK.—I think I shall have to enter an objection here, Mr. McClanahan. I have not objected to this fishing expedition that you have been on because I knew what it must come to in the end. These bills, as the witness already has testified, are not bills made out by him, or in his office or department, so there is nothing that he can testify to respecting the job numbers on that except argumentatively, and that is not competent. [1112—1024]

Mr. McCLANAHAN.—I am simply complying with the request of the witness, or rather, the suggestion of the witness that the bill itself would show

(Testimony of James R. Christy.)

the order number. I think I have a perfect right to show him the bill to see if that is true.

Mr. FRANK.—That shows he thought you might find it there. If he does not find it there—

Mr. McCLANAHAN.—Q. You do not find any order number on Schedule 1, the large bill?

A. I had not completed the investigation of it. It may be somewhere on the heading. It is a very voluminous affair and has been rewritten a dozen times.

Q. I should like you to complete your investigation. I thought you had, Mr. Christy.

Mr. FRANK.—You will have an opportunity to get all that from the party who makes up the bills. You seem to go on a fishing expedition with everyone that comes on the stand in the hopes that you may perhaps get a witness to make a guess which may or may not conform to the facts. I have given you the job numbers as requested. You have had all the job numbers on all of the tickets and on all of the material cards which indicate the nature of the work that was done under it.

Mr. McCLANAHAN.—I will discontinue this line of examination right here if you will tell me the job number placed on the original specification.

Mr. FRANK.—I am not the witness or the party who has it. I do not know anything except what is told to me.

Mr. McCLANAHAN.—I will disregard its being hearsay if you will tell me what was told you.

Mr. FRANK.—If you will accept it as evidence

(Testimony of James R. Christy.)

then I will tell you. I am not going to fill the record with something that you will accept if you like, and reject if you do not like it.

Mr. McCLANAHAN.—I will discontinue this examination on that line then.

A. (After examination.) I have not found it.
[1113—1025]

Q. Will you please examine your records and give me the job number that was placed on the original slip? A. Am I instructed to do it?

Q. No; you are requested to do it.

Mr. FRANK.—I will give you the job numbers, if you want them, that are on that original bill, there is more than one job number there.

Mr. McCLANAHAN.—Mr. Frank, I am asking the witness to give me from his records the original job number that was placed on the original slip of the “Hilonian” work?

A. Well, of course, I would be guided by the instructions of my attorney in that matter.

Q. Well, Mr. Frank is not objecting to that, Mr. Christy. A. Is that so, Mr. Frank?

Mr. FRANK.—We do not care anything about that. He is perfectly welcome to them.

Mr. McCLANAHAN.—Q. You will do that.

A. Certainly, if Mr. Frank says so. This is rather out of my line; I am not a legal sharp.

Q. Mr. Christy, did you figure on any of the work which was written on the slip turned in to you for work to be done on the “Hilonian”?

(Testimony of James R. Christy.)

A. No, sir; I had nothing to do with the job whatever.

Q. You were not consulted?

A. Not consulted on it.

Q. You know, of course, that the "Hilonian" was seeking bids for work?

A. I heard rumors on the waterfront; that is all I had heard, around our yard, but I personally knew nothing of it.

Q. You heard nothing from your partners?

A. I never heard anything at all; I never have discussed it with them. [1114—1026]

Mr. FRANK.—They are not partners, they are stockholders. A. Associates.

Mr. McCLANAHAN.—Q. Did you ever discuss with anyone the question of the removal of the "Hilonian's" crank shaft? A. No, sir.

Q. Did you ever have anything to do—

A. Now—

Q. Pardon me; I withdraw that.

A. When you refer to that, I would like to correct that. We had a list of work. If that was in the list of work, I probably discussed the job with the foreman at the time the orders were entered, but other than that, no.

Q. And you have no distinct recollection of that discussion even with the foreman?

A. No, I have not. I know this, that we prepared in the shop to turn the crank shaft; that I had given orders for such arrangements to be made to be ready to turn up her crank shaft; I directed them, if you

(Testimony of James R. Christy.)

brought the shaft out, that it be fitted up to do the job.

Q. Did you ever have anything to do with the changes in the original list of work to be performed?

A. In this regard, I instructed the foreman to take orders from the representatives of the company, if there were any changes or alterations they might want to make.

Mr. FRANK.—Q. You say representatives of the company; what company do you mean?

A. The Matson Navigation Company.

Mr. McCLANAHAN.—Q. What foreman do you mean?

A. Mr. Siversen, Mr. Wilhelmsen.

Q. Would Mr. Siversen or Mr. Wilhelmsen either of them, have authority of themselves to change contract work?

A. Well, as I explained to you a while ago, it is almost impossible [1115—1027] to follow the specification on engine repairs, and a foreman is instructed where his judgment shows him it is necessary to make alterations, to discuss that point with whoever is in charge and alter it accordingly.

Q. So when you take contract work you take it with the understanding, do you, that there is to follow necessarily changes in the contract, or the work to be performed under the contract?

A. I would say this, that my experience teaches me that in writing a specification, without dismantling a piece of machinery, it is almost impossible to describe the condition that exists in that machinery

(Testimony of James R. Christy.)

after it is dismantled, and it would be a very ordinary thing to find a piece of machinery entirely different from the man's idea before it was dismantled.

Q. Now, I will have to have read to you my question. I am very much obliged to you for your statement, but I want you to answer my question, for I do not think you have reached the question.

(The last question repeated by the Reporter.)

A. I will try to. It would be impossible to do that.

Q. It would be impossible to do what?

A. To take a contract with the view that I was going to do something different from what you contract for.

Q. Isn't that what you have just stated?

A. No, sir. I stated that it was nearly impossible for any man to write a specification covering the repair of a piece of machinery that had not been dismantled and have his specifications closely followed.

Q. Do you mean to say that there are no marine contracts for the repair of vessels that are carried out?

A. The repair of a vessel and the repair of a piece of machinery are really two different subjects. The hull of a vessel in a [1116—1028] general way you can find the condition of.

Q. Let us confine ourselves to the repair of machinery.

A. There are specifications that are followed where the nature of the work can be seen, but where the work cannot be seen it is a common thing to find the specifications very much at fault.

(Testimony of James R. Christy.)

Q. Very much at fault? A. Yes.

Q. But at the same time you enter into contracts, do you not, to carry out such specifications?

A. We frequently contract to do work as per specifications, and after discovering it is impractical to do this work, we depart from that specification under the orders of the party who has control of the work.

Q. This offer of August 2 stipulates that the work is to be done in strict accordance with the specifications, I see. Is this "Hilonian" work of such a character that it would be impossible to carry out the specifications which were submitted to you originally?

A. In regard to the "Hilonian" I know there were a great many departures made necessary from the original specifications.

Q. Well, what are those, please; tell me.

A. One of the jobs when the ship was on the dock was they had to cut a hole in the bottom of the ship to get the oil out of her tanks before work could be carried on inside of the ship.

Q. What work? A. Repairs inside of the ship.

Q. What repairs?

A. I would like to ask you a question. I would like you to explain your question a little more clearly; and I would like to have it repeated, I do not quite understand what you said. [1117—1029]

Q. Read the question, Mr. Reporter.

(The question repeated by the Reporter.)

A. Well, what I have said there would have no bear-

(Testimony of James R. Christy.)

ing on your question at all, because you have asked me whether it could be carried out, the specifications, while a great deal of this work was not in the specifications that was done, it is additional work.

Q. But it would not be impossible to carry out the specifications as they were originally presented to you?

A. Not impossible, but it would be probably unwise.

Q. Unwise.

A. Unwise, on the part of the owner of the ship, as they would be doing useless work frequently and not doing such work as they should do.

Q. Do you remember any details of the specifications that it would have been unwise to have carried out as specified? I am not referring now to extra work.

A. I believe the crank-shaft would have been a useless piece of work.

Q. And did you believe that at the time you received the slip from the office?

A. I didn't know it until the ship was dismantled and got into shape to find out.

Q. Didn't know what?

A. That it was a useless piece of work.

Q. Do you remember why it was useless or would have been useless?

A. My recollection is they supposed the shaft to be in a much different condition from what they found it.

Q. Who supposed it?

(Testimony of James R. Christy.)

A. The man who wrote the specification or the list of work.

Q. And that made it useless to do what?

A. The work as called for under their original list. [1118—1030]

Q. In other words, it made it useless to take the crank-shaft to the shop?

A. Yes, it would be an unnecessary work to have done it; it was so concluded on investigation by the Matson Company's representatives, and they decided not to do it.

Q. Can you think of anything else that was decided to be useless?

A. Not at this moment, I cannot. I do not know of the job in detail. We had men in charge of that work who were in constant touch with all of these details, and they would be familiar with these subjects.

Q. Under your system of job numbers it is perfectly easy for you to keep track of the work that you did, different classes of work, is it not?

A. Well, keeping track of work is quite a job always, and we adopt quite a system, have quite an elaborate means of trying to keep it, keep it accurate.

Q. It is not difficult, is it, to follow the time and labor and material put on a particular piece of work?

A. If you have timekeepers on the work, why, it is possible to keep a fairly accurate record of all work done.

(Testimony of James R. Christy.)

Q. Did you have any timekeepers on the "Hilonian" work?

A. We had the timekeeper always in our yard.

Q. Did you have one on the "Hilonian" work?

A. Not particularly the "Hilonian"; he keeps all of our work, all the work that is in the shop.

Q. What is his name?

A. The man in charge of the time department now is Walter White; the man that was in charge then was—

Q. Sjoberg? A. Sjoberg. [1119—1031]

Q. So that if there is a contract for a piece of work and it is decided to change one of the specifications of the contract, you give that change a new number, do you, the work done under the change a new number?

A. Not necessarily. It depends on the conditions under which the work was being done.

Q. But you would give it a new number, could you not, and keep track of the change?

A. Well, if you are working on one piece and a part of the work was to be done on one number and part on another number, you would lead to confusion. So we try to keep our time as simple and direct as possible so that there will be no blundering, no errors.

Q. You never heard of any contemplated change in the original list of work furnished to you, did you?

A. Contemplated?

Q. Yes. A. No, sir.

Q. That matter of changes was left to the Matson

(Testimony of James R. Christy.)

Navigation Company's representative and to Mr. Wilhelmson? A. And Mr. Siversen.

Q. Well, Mr. Siversen was under Wilhelmson, was he not?

A. Well, Siversen was directly in charge of that job.

Q. Wasn't he under him in authority?

A. Mr. Wilhelmson is the general foreman of the yard.

Q. My impression, from Mr. Siversen's evidence, I may be wrong, is that Siversen stated that he did not have authority to make changes.

A. Mr. Wilhelmson is a superior officer. The changes were supposed to be originally from the Matson Navigation Company; they are the people who had the authority to make changes, not ours.
[1120—1032]

Q. Well, if it is a contract they could not make a change without your consent?

A. Well, I consider that we had no contract on that job. I am not a legal sharp on the matter, I don't know. The job was so different from what was originally discussed that it would be almost impossible to do it under any contract.

Q. Why is it that you consider that you had no contract on that job?

A. Well, the Matson Navigation Company must have so considered it themselves; they had a time-keeper at our yard keeping the time of the men.

Q. I am not asking—

A. (Contg.) —in the beginning, and if it was

(Testimony of James R. Christy.)

a contract job why should you keep the time?

Q. I am not asking for the attitude of the Matson Navigation Company. I am asking you for your attitude. Why do you consider that you had no contract? A. I drew my conclusion from that.

Q. From the fact that they had—

A. (Intg.) They had a timekeeper of their own, and they kept the time of every man working on the job.

Q. That is the reason you conclude that there was no contract?

A. Yes. You have asked me that question right now, that is why I answer you.

Q. Not because there was no acceptance of this offer of August 2?

A. I know of no acceptance of it. I know of no contract, and I know also they had a timekeeper there, so that led me to believe that it was not a contract.

Q. Who was the timekeeper? A. Mr. Putzar.

Q. Is he the gentleman that you spoke of in your direct examination? [1121—1033]

A. I do not know what you refer to, in my direct examination. What do you mean by that?

Q. The examination by Mr. Frank.

Mr. FRANK.—What is it? What particular thing do you refer to; that is too indefinite.

Mr. McCLANAHAN.—Q. He mentioned a Mr. Putzar in his direct examination. Is that the man you refer to now as timekeeper of the Matson Navigation Company?

(Testimony of James R. Christy.)

A. There is only one Putzar I know of that was on the job.

Q. It must have been the same man.

A. I guess it must have been.

Q. It must have been the same man. A. Yes.

Q. So Mr. Putzar, as I understand it, was the time-keeper on the job?

A. Mr. Putzar was the adviser of the job, and he kept time on the job. Captain Saunders told me that Mr. Putzar was their adviser on that job, and what Mr. Putzar advised them to do they would do.

Q. Mr. Klitgaard was the engineer, was he not?

A. Mr. Klitgaard was an engineer of the ship during a portion of her time. Mr. Putzar took her out as the engineer when she was completed.

Q. Do you know whether Mr. Klitgaard was not the engineer during all the time of the repairs?

A. I have an impression that he was not.

Q. You don't know, though?

A. He told me that he was leaving the ship.

Q. You don't know, though?

A. He told me that he was leaving the ship. [1122—1034]

Q. But you don't know?

Mr. FRANK.—Draw your own conclusions.

Mr. McCLANAHAN.—Q. He was leaving the ship on the next voyage?

A. No, he was leaving her at the yard, and that Putzar was going to take the ship as chief engineer.

Q. Mr. Klitgaard was there through the whole repair work, was he not?

(Testimony of James R. Christy.)

A. I do not know whether he was or not, without thinking further into that.

Q. By the way—

A. (Intg.) I had an impression that he was away from that ship part of the time.

Q. By the way; were you there during the repairs?

A. I was in the yard during the repair of the vessel.

Q. All through the work?

A. To the best of my recollection, yes.

Q. Any other ships being repaired at that time?

A. More than likely. Hold on; let me see, now. I think that we were building a new job at that time.

Q. What was it—an engine?

A. No, a ship, and we stripped all the men off that ship to rush the “Hilonian” out, took nearly everybody in the yard and put them on the “Hilonian.”

Q. Why?

A. So as to rush the job, get the ship out; there was a great pressure to get the ship out and turned over.

Q. You say you were building a new ship. Were you not building an engine?

A. I do not think so. I could not tell you without looking up the records. I am under the impression we were building a new vessel at that time; we were building a boat for the Standard Oil Company, if I am not mistaken.

Q. Would the class of men which you say you took from the building [1123—1035] of this ship be the class of men that you would want to put on the

(Testimony of James R. Christy.)

“Hilonian” machinery work?

A. Well, we would take both machinists and shipbuilders for that job.

Q. Is that your answer to my question, would it be the same class of men?

A. We work both classes of men, both shipbuilders and machinists.

Q. On the “Hilonian”? A. Yes, sir.

Q. And took them from this other ship?

A. We delayed our other work and held it back to try and give this ship dispatch, due to the fact that she was in a hurry.

Q. Will you please answer my question? Did you take these men from the ship, from the work you were doing, on this ship?

Mr. FRANK.—I submit that he has answered your question over and over again, and you seem to want a categorical answer to everything that you ask, and do not accept what he says.

A. Am I a witness for you or for the other fellow?

Mr. FRANK.—You are not a witness for anybody; you are here to tell the facts.

Mr. McCLANAHAN.—Q. Did you take these shipbuilders and mechanics from the ship that you were building and put them on to the “Hilonian” job? A. I have already answered that question.

Q. All right, sir. Do you know anything about the value of painting and cleaning a ship?

A. Yes, sir.

Q. I show you your bill attached to the libel, where you have charged \$246 for cleaning and painting,

(Testimony of James R. Christy.)

two coats, on the "Hilonian." Is that a fair figure for that labor, Mr. Christy? [1124—1036]

A. Can you tell me how many gallons of paint was required to put on that ship? If you can I will tell you.

Q. 87 gallons of one kind and 77 gallons of the other kind.

Mr. FRANK.—He is asking you concerning the labor.

The WITNESS.—That would govern the labor. May I have a piece of paper? I want to figure the number of gallons of paint used. It was 87 and 77.

Mr. FRANK.— I want to enter an objection to that at this time on the ground that it is immaterial, because the charge that has been made is made for the actual time and labor that was actually put in on the job and not made upon an estimate; estimates are uncertain things. (Addressing the witness.) Go on and make your estimate.

A. What is the charge?

Mr. McCLANAHAN.—Q. \$246.

A. If the ship had been cleaned and painted on either the docks in San Francisco at the prevailing rates it would be \$246.

Q. For the labor? A. Yes.

Q. And that would be the prevailing rate at the time she was cleaned and painted?

A. That is about what it amounted to.

Q. You remember, do you, Mr. Christy, the cleaning and painting of the "Hilonian"—don't you?

(Testimony of James R. Christy.)

A. I remember she was cleaned and painted; that is all.

Q. At your works? A. Yes, sir.

Q. She was cleaned and the painting was finished, was it not, the last day of her being in the drydock, necessarily?

A. Well, it may have been on the last day. I could not testify [1125—1037] to that now.

Q. Can't you testify that it would necessarily have to be on the last day? A. Not necessarily, no.

Q. Why, would not the anti-fouling paint, the life of it, be destroyed if it was exposed to the air?

A. The ship as a rule is painted before and stands. Now, it is possible that this ship was painted before. I do not know that she was, but if we were preparing to pull the ship into the water, we would naturally paint her in advance to have her ready to go into the water, so that would not be the cause of delay.

Q. Isn't it good workmanship to finish the painting just before you put her into the water?

Mr. FRANK.—We object to that; it depends on the special conditions prevailing at the time.

Mr. McCLANAHAN.—Let the witness testify, Mr. Frank.

Mr. FRANK.—Is that a catch question? I did not know that; if that is so—

Mr. McCLANAHAN.—It is a question that does not require any assistance from you.

Mr. FRANK.—I am sure I cannot assist him on a technical matter of that kind, but if it is a catch question, then I am glad I unwittingly exposed it.

(Testimony of James R. Christy.)

Mr. McCLANAHAN.—There is nothing catchy about it at all. Mr. Christy knows or does not know whether it is good workmanship to paint the ship the last thing and put her in the water as soon as possible after the painting is finished. What is your answer? [1126—1038]

A. The last coat of paint on a ship's bottom it is considered advisable to put on not over twenty-four hours before she goes in the water.

Q. That is because of the anti-fouling paint losing its life by exposure to the air, is it not?

A. That is the reason.

Q. Now, you testified on your direct examination about this work on the rudder. Did you have anything to do with the work on the rudder?

A. I distinctly remember being called down to the dock and asked my opinion as to the condition of that rudder.

Q. Who were you called by, Mr. Christy?

A. My recollection is this, that I was called by Mr. Saunders, Mr. Putzar and Mr. Klitgaard. There was a general discussion on this matter about additional work.

Q. Was not Mr. Wilhelmson there?

A. I could not say.

Q. You would not want to say he was not?

A. I would not testify he was there or not.

Q. Have you stated the time when you went down there? A. No, I did not.

Q. Did you say morning? A. No, I did not.

Q. You could not say morning or afternoon?

(Testimony of James R. Christy.)

A. I did not state the time.

Q. Do you know?

A. My understanding, Mr. McClanahan, is when a ship is in the drydock it is quite important to hurry the work on her as the expense is heavy; and we were hurrying the work on the bottom of the ship as rapidly as possible to complete the lining of the stern bearing and painting the ship so as to get her into the water. [1127—1039]

Q. Isn't the rudder and the propeller the first thing that you examine after you take a ship out of the water?

A. Yes; the rudder was examined and they were told of its condition.

Q. Just as soon as she was taken out of the water?

A. As soon as it was discovered, shortly afterwards, and this discussion was carried on for several days, whether or not they would do the work, or would not.

Q. Discussion between whom?

A. The Matson Company.

Q. Between whom?

A. My recollection is that it was Mr. Putzar and Captain Saunders that was discussing this detail.

Q. Was not Klitgaard there?

A. Klitgaard may have been there, but Mr. Putzar's opinion was more in evidence than anyone else's at the time. I remember that very clearly.

Q. What was the opinion of Mr. Putzar?

A. He was very strong against the ship going into

(Testimony of James R. Christy.)

the water in the condition in which she was; he said it was unsafe.

Q. What was the opinion of Mr. Saunders?

A. The conclusion rendered by all hands was that the work was necessary to be done and they done the work; pending the conclusion nothing was done.

Q. I am trying to reach the situation through the discussion during the indecision; what Putzar thought you have already given.

A. He insisted the ship was unsafe in its present condition.

Q. What was Captain Saunders' opinion on the start?

A. I do not remember Captain Saunders' opinion on that matter. [1128—1040]

Q. Do you remember what Wilhelmson's opinion was? A. I do not.

Q. Do you remember what Klitgaard's was?

A. I do not. I remember my own opinion, that it was the ship was in bad shape.

Q. So you do not know why or you do not know where the difference of opinion existed that caused this delay?

A. I do not. It was possible they may have called in the insurance representative or the United States Government inspector; they may have decided the matter for them.

Q. You think—

A. (Contg.) The Government inspectors inspect the bottoms of all those ships, you know, when they are on the dock.

(Testimony of James R. Christy.)

Q. You think this discussion, however, extended for two or three days? A. Yes; for several days.

Q. For several days? A. Yes, sir.

Q. You know that you were given directions to do the work and you did it expeditiously?

A. Yes, sir.

Q. Do you remember how long it was after?

A. Usually, Mr. McClanahan, the United States Government is notified of the docking of any ship, and they send an inspector there to look it over, and the report of the inspector frequently guides the owners in what work they do, also the representatives of an insurance company, and they may have been waiting for the insurance company's representative or the United States Inspector to direct them as to what they wanted to do. That might have accounted for their delay in reaching their conclusion.

Q. Do you remember what was the stage of the work on the [1129—1041] "Hilonian," aside from this rudder work, at the time you were called in to this discussion and your opinion was asked in regard to it?

A. Yes—at the time that I was called into it?

Q. Yes. Was it the first day she was on the dock? That is the day it was discovered, of course?

A. The work was discovered the first day she was on the dock, I think.

Q. Were you called in then?

A. Or the second day. I am not positive.

Q. Were you called in then?

A. But the conclusion was not reached until later.

(Testimony of James R. Christy.)

Q. Several days. But were you called in when the work was first discovered?

A. I do not think so. I do not think they asked my opinion until afterwards.

Q. Until later?

A. I know that the matter—I do not think they asked my opinion until they had discussed it some time.

Q. Do you know how long after your opinion was asked that the work was turned over to you?

A. I could not tell you that now.

Q. Did you have anything to do with the work after it was commenced?

A. In what way do you mean?

Q. Did you know—

A. The form of work—you mean regarding its details?

Q. Yes.

A. The foreman of the job would carry it on.

Q. Don't you know how the boring-bar used was installed?

A. I know there was a boring-bar installed; how it was installed I could not say. [1130—1042]

Q. You do not know?

A. The same as all other boring-bars.

Q. Do you know what kind of boring-bar was used?

A. The bar that is usually used is a straight boring-bar, driven by a rotary-head.

Q. Do you know its diameter? A. I do not.

Q. Do you know how it was driven?

(Testimony of James R. Christy.)

A. It was probably driven with an air motor, an air engine.

Q. You do not know, though?

A. I am not positive.

Q. Do you know whether the boring-bar was used continuously through all the gudgeons?

A. I could not tell you that now, it is too long ago.

Q. You do not know how it was put in place?

A. How it was put in place?

Q. Yes.

A. I know how a bar has to be put in place; there is no other way of putting it in place, providing bearings for it to run in; that is the only way a bar could be put in place; it has to be cut above a boring, the gudgeons that you are boring.

Mr. FRANK.—I would like to know the materiality of this examination. It may seem interesting, Mr. McClanahan.

Mr. McCLANAHAN.—Isn't the examination perfectly proper as cross-examination?

Mr. FRANK.—No, not unless it has bearing on the case. As I see it now it is absolutely immaterial, and that is the reason I want to know what the purpose of it is.

Mr. McCLANAHAN.—Mr. Christy was called here, I believe, to testify in regard to this work.
[1131—1043]

Mr. FRANK.—Was he?

Mr. McCLANAHAN.—As I understood his evidence on direct examination, he was called to testify that the boring of these gudgeons necessitated the

(Testimony of James R. Christy.)

delay of the ship at the dock.

Mr. FRANK.—Very well.

Mr. McCLANAHAN.—I want to claim the privilege of cross-examination of him on the boring of the gudgeons.

Mr. FRANK.—He did not testify that the boring itself delayed the ship; he testified she was delayed because of the indecision of the Matson Navigation Company as to what they would do with respect to repairing the rudder. That is what he testified to.

Mr. McCLANAHAN.—I consider it proper cross-examination.

Q. Do you know how the cutters were fed on this particular job? A. I do not.

Q. Do you know how many gudgeons on this particular job were bored simultaneously?

A. I do not.

Q. You did not see the work at all going on?

A. I saw the work in a general way going on. It was three years ago since it was going on, and I have not had occasion to consider it since. I have not thought of the "Hilonian" since.

Q. What is your answer to this question: What was the size of the cut and the depth of the feed?

A. I would refer you to the men on the job.

Q. You don't know.

A. I do not handle that; I had a man in charge of the work.

Q. Who was he, Mr. Wilhelmson?

A. Mr. Wilhelmson, the general foreman of the United Engineering Works. [1132—1044]

(Testimony of James R. Christy.)

Q. He had charge of that, did he?

A. The general foreman in the yard.

Q. Well, we will have to get our information from Mr. Wilhelmson. Is there in your office any record kept of contract work?

A. You asked me that question about an hour and a half ago, and I think I gave you an answer to that.

Q. What was your answer?

A. You can see from the record.

Q. You can't remember what your answer was?

A. I don't know as there is any occasion to repeat it, is there?

Q. Well, for my convenience, merely as a courtesy to me, will you? A. I suggest the clerk read it.

Q. Then you decline to answer the question?

A. I think it is a repetition. I do not see any occasion to repeat myself.

Q. Then you decline to answer the question, do you? A. I have already answered your question.

Q. And you decline to answer it again?

A. I decline to be made a damn fool of.

Q. Do you know when the rebushing of the stern bearing was commenced on the "Hilonian," Mr. Christy? A. When she was on the dock.

Q. At what stage of the time?

A. After the Matson Navigation Company decided to do it.

Q. After they decided to do it? A. Yes, sir.

Q. The rebushing of the stern bearing?

A. No; the stern bearings. The gudgeons you spoke of.

(Testimony of James R. Christy.)

Q. I beg your pardon. You are not listening to my questions. Read the question to the witness.
[1133—1045]

A. Immediately on the ship getting dry on the dock.

Q. You know that, do you? A. I do.

Q. You, prior to this job on the "Hilonian," had always done the work of the Matson Navigation Company, had you not? A. You mean me, personally?

Q. Well, your concern.

A. We had done work for the Matson Navigation Company, not all of their work; no, sir.

Q. You yourself were perfectly familiar, were you not, with the "Hilonian" machinery?

A. In a general way.

Q. Hadn't you made a detailed examination of it but a short time before this work was done?

A. Not a detailed examination; no, sir.

Q. You made an examination, though?

A. I made a trip on the boat from the quarantine station to the wharf at Howard Street at the request of Captain Saunders, and the engines were in operation, but it was no detailed examination whatever.

Q. What kind of an examination was it?

A. I walked through the engine-room while the engines were in operation and observed the conditions that existed aboard the ship.

Q. Did you give an opinion as to the condition of the machinery? A. I may have.

Q. What was it?

A. That she was badly run down, but not danger-

(Testimony of James R. Christy.)

ous to make another voyage.

Q. Was it your opinion that led to the repairs on the "Hilonian"? A. No, sir. [1134—1046]

Redirect Examination.

Mr. FRANK.—Q. Of course, by walking through the vessel in the manner you have just indicated, you could not be able to see any of the defects that exhibited themselves when the engines were dismantled?

Mr. McCLANAHAN.—I object to that as suggestive and leading.

A. Absolutely, no.

Mr. FRANK.—Q. Do you know, Mr. Christy, whether or not the rudder job was the last job performed on her while she was on the dock?

A. That is my belief; yes.

Q. And previous to that she had been repainted and intended to be relaunched?

Mr. McCLANAHAN.—I object to that as leading and suggestive.

A. Our intention would be to have the ship completed at the time her stern bearing was done, and put her in the water in case the other work was not done. Now, it may be possible that the final coat was held off. I do not know. I do not remember whether we held that off until the other work was done; if we did, it would be at the suggestion of the owners to do that, to prevent the paint fouling—the owners' representatives I refer to.

Mr. FRANK.—Q. I understood you to say on your cross-examination that if you had a contract on cer-

(Testimony of James R. Christy.)

tain specifications you would not depart from those specifications except on the order of the owner, even though the specifications were inadequate for the purpose of the job; is that it?

A. That is it, or the representatives of the owners.

Q. Well, that is the owner.

A. That is what I would infer. [1135—1047]

Q. Now, you spoke in that connection that it would have been unwise to have done the work of the "Hilonian" according to the list of work that was furnished to you originally. What do you mean by "unwise"? Explain yourself.

A. I think I have explained in the record there, Mr. Frank, that I have said it would be spending money uselessly in doing work that was unnecessary, and it would be unwise to leave necessary work undone.

Q. That is other work developed and the manner of doing the work was changed because it would not have made it a proper job?

Mr. McCLANAHAN.—I object to the question as leading and suggestive.

A. That is it exactly.

Mr. FRANK.—Q. Those necessities for a change or deviation from the specifications, how would they be ascertained, whether or no they would develop as the job progressed.

A. How would it be? I do not understand your question.

Q. Read the question.

(The last question repeated by the reporter.)

(Testimony of James R. Christy.)

A. Whether or not they would develop?

Q. Yes, whether the necessity would develop as the job progressed.

A. Why, the experience of the men who were in charge of the work would guide them in this as to the condition of the work.

Q. Yes, but what I am getting at is—I am trying to get it without inflicting upon Mr. McClanahan the odious condition of suggestion—

Mr. McCLANAHAN.—I think I was very considerate in not objecting to that question. I think it was suggestive and leading. [1136—1048]

Mr. FRANK.—Q. What I am trying to get at is this, whether or not those matters would develop on the dismantling of the machinery which would not be seen before the dismantling of the machinery.

A. That is the reason exactly, Mr. Frank; that is the reason.

Q. The work as specified would not answer the purpose; is that it? A. Yes, that is it exactly.

Q. During your cross-examination you spoke frequently of a list of work that was furnished you and Mr. McClanahan used the word “specifications.” Now, what is the distinction that you have in mind between the list of work that was furnished you and specifications?

A. The list of work is a list of the work to be carried out on the job; as predetermined by some man who has drawn this list of work up; the specification, as I understand Mr. McClanahan to use it, would refer to some part of some given agreement.

(Testimony of James R. Christy.)

Q. Now, I understood you to say that after work had been performed that the record of it was transformed into a list of work as done of the nature as shown in the bill on this. A. Yes, sir.

Q. And that is the record that you keep?

A. That is the record of the job.

Q. When the work is progressing as a rule or as a custom in the manner of performing the work, state whether or not all difficulties are not agreed upon and settled as the work progresses, the difficulties that arise? A. Repeat the question, please.

[1137—1049]

(The last question repeated by the Reporter.)

Q. Whether or not they are settled between the parties?

A. That is why you have a man in charge of the work, to settle those things.

Q. To settle them? A. Yes, sir.

Q. There is no occasion, then, to keep specification as specifications afterwards?

Mr. McCLANAHAN.—I object to that question as suggestive and leading.

A. No, sir.

Mr. FRANK.—Q. Do you remember ever having been drawn into a dispute of this kind before after the work has been completed?

Mr. McCLANAHAN.—I object to that as immaterial.

A. No, sir—you refer to—do I understand that as bearing on the Matson Navigation Company or anyone else?

(Testimony of James R. Christy.)

Mr. FRANK.—Q. The Matson Navigation Company or anybody else.

A. I have had a dispute of this character with Mr. Diericx previously.

Q. Well, with anybody else besides Mr. Diericx?

A. No, sir.

Q. It is a very common thing to have disputes with Mr. Diericx, is it not?

Mr. McCLANAHAN.—I object to that.

A. We have had a dispute before.

Mr. FRANK.—Q. I understood you to say that it is not the practice then to keep these lists of work or specifications.

Mr. McCLANAHAN.—I object to that as calling for a repetition of the witness' testimony. [1138—1050]

Mr. FRANK.—Q. Is that the fact, then?

A. The completed list of work is the record that is kept.

Q. Is the only record that is kept?

A. Yes, in my yard.

Q. When in answer to Mr. McClanahan's question upon the subject you stated that you never heard of any contemplated changes, what did you understand the question to be?

A. I understood that to be that when the list of work came over to the yard, was there any contemplated changes at that time. That is what I understood it to mean. Is that what you mean, Mr. McClanahan?

Mr. McCLANAHAN.—Yes.

(Testimony of James R. Christy.)

Mr. FRANK.—Q. That is what you understood him to mean.

A. At the time of the arrival of the ship there, whether it was contemplated not to do as the list was, I had heard nothing. That was developed as they got into the work; as they stripped the ship down they found it different from what they had anticipated.

Recross-examination.

Mr. McCLANAHAN.—Q. On Mr. Frank's re-direct examination you have given your understanding of the difference between the list of work as used in your testimony and specifications as used by me. You remember that, do you?

A. Yes, sir, I remember it.

Q. Am I to understand from your explanation that you never had any specifications for "Hilonian" work?

A. My understanding of that is this, Mr. McClanahan, that you are attempting to make me state that I had a contract to do certain repairs on the "Hilonian," and I am stating that I [1139—1051] had no contract that I know of. That is my answer to it. Now, as I understand your statement, you are referring to specifications as a part of the contract.

Q. Now, eliminating what you infer me to mean, there is no difference between a list of work and specifications? A. Eliminating what you say?

Q. Eliminating any inference that I am trying to tie you up to a contract by the use of the term specifications, there is no difference between a list of work

(Testimony of James R. Christy.)

and specifications?

A. The list of work could be made to cover the same ground as the specifications.

Q. There is no difference, is there?

A. There may be a technical difference.

Q. What is it?

A. I am not lawyer enough to say.

Q. You mean a legal difference?

A. A legal difference, that is what I mean.

Q. But from the standpoint of a practical business man, there is no difference? A. No, sir.

Q. Now, Mr. Christy, you have said that you would furnish me with the job number that was attached to that original list of work; and I will relieve you of doing that provided Mr. Frank will do it for you.

A. Well, he said he would, I believe.

Mr. McCLANAHAN.—Is that understood, Mr. Frank?

Mr. FRANK.—Yes. I will furnish—just one moment; I will furnish the job numbers.

Mr. McCLANAHAN.—I am referring to one. I am referring to the job number that Mr. Christy says was put on to this original list of work. [1140—1052]

Mr. FRANK.—Well, now, let us find out what the fact is. I am satisfied that your construction of that is wrong; but there is a difference between us.

Mr. McCLANAHAN.—There is no room for any difference.

Mr. FRANK.—That just shows that there is.

(Testimony of James R. Christy.)

Mr. McCLANAHAN.—Q. Mr. Christy—

Mr. FRANK.—Wait a moment. I will examine him on the subject.

Mr. McCLANAHAN.—You claim the right to examine him?

Mr. FRANK.—Yes.

Q. With reference to this original list that you spoke of, was there one or more different job numbers attached to that original list?

A. Oh, probably a good many numbers. It was cut up in different numbers. I can't tell you that without looking up the information. This was long ago. That would be the practice probably, to cut it up—I do not remember. That is, whatever would be the most practical way of handling it through the shops, to have less confusion in keeping records of them.

Q. When you say cutting it up, do you mean that the entire list as it came in would be cut, or that as the changes were made there would be changes added under the original number?

A. They would go in on the original number, yes.

Q. That is what I am trying to get at.

A. They would go in, the changes would go in on the original number.

Q. The changes would go in on the original number itself.

A. Yes. But what I mean by cutting it up, that a portion of the job, for instance, it was possible that there might be the taking of anything important by one number; possibly that might be the case. [1141—1053]

(Testimony of James R. Christy.)

Q. You don't know whether that was the case?

A. I don't know whether it was the case.

Q. Will you look it up?

A. I can have it looked up for you.

Mr. McCLANAHAN.—Q. Mr. Christy, I do not want any confusion about what I want. I am not asking you for the numbers that may have been subsequently added to the original list. I want the number that was placed on the original list when it first came into your hands, the first number given to that job. A. Yes, I understand.

Mr. FRANK.—In addition to that we will give you the other work that was done under the original number that is not on the original list. I do not want to get this record confused. You can very well confuse it if you limit us in the manner in which you desire.

Mr. McCLANAHAN.—I am willing to take anything you give us, provided I get what I want; but I want that original number; that is all at present. It is understood Mr. Frank will furnish that to-morrow.

Mr. FRANK.—Yes—I will furnish it as soon as I can get it.

Mr. McCLANAHAN.—Q. When will you get this number, Mr. Christy?

A. Well, I won't get over to the yard until to-morrow.

Q. Can you telephone the number over to Mr. Frank? A. Not very well.

Mr. FRANK.—I will get it for you as quick as I can; you possibly will get it to-morrow.

(An adjournment was here taken until to-morrow, Thursday, September 21st, 1911, at 10 A. M.)
[1142—1054]

Thursday, September 21st, 1911.

(At the request of the libelant an adjournment was here taken until Friday, September 22d, at 10 A. M.)

Friday, September 22d, 1911.

(At the request of the libelant a further adjournment was taken until Wednesday, September 27th, at 10 A. M.)

Wednesday, September 27th, 1911.

[Testimony of Marcell Ferro, for Libelant.]

MARCELL FERRO, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Ferro, in August and September, 1909, were you in the employ of the United Engineering Works? A. Yes, sir.

Q. In what capacity? A. Helper.

Q. Were you in the engine-house? A. Yes, sir.

Q. Doing what?

A. Doing night engineer's work.

Q. During that time did you keep a record of your time on the time-cards of the company?

A. Yes, sir.

Q. I hand you now a series of cards dated respectively August 24th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, September 1st, 2d, 3d, 5th, 6th, 7th, 8th, 9th 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, and 21st, and ask you if those are the cards made out by you at that time for the time

(Testimony of Marcell Ferro.)

worked by you in the engine-room of the United Engineering Works. A. Yes, sir, they are. [1143—1055]

Q. Just look them over again, you have looked them over once? A. Yes, sir.

Q. I understand you that this was night work, during night-time. A. Yes, sir.

Q. Where did you get your job numbers from, Mr. Ferro? A. From the timekeeper in the office.

Q. I notice on some of these cards that there are changes in the job number? A. Yes, sir.

Q. How are those changes made?

A. I would get the number from the timekeeper going out in the evening, and would probably make a mistake in the number, and he would correct it for me at the window when I would turn in my time-card.

Q. Correct it in your presence? A. Yes, sir.

Q. At the time these cards were made out and turned in state whether or not you knew them to be correct. A. Yes, sir, they were.

Q. Do they indicate the exact number of hours worked? A. Yes, sir.

Q. What was the nature of the work that you were performing? A. At night?

Q. Yes. A. Engineer's work.

Q. That is running the engine? A. Yes, sir.

Q. That gave the power?

A. Yes, sir, that gave power to the ship, the lights.

Mr. FRANK.—We offer these cards in evidence and ask that they be marked Ferro Time-cards No. 1.

(Testimony of Marcell Ferro.)

Mr. McCLANAHAN.—We object to the offer and to the offer of each of the cards on the ground that they are incompetent, irrelevant and immaterial, hearsay, self-serving and not binding [1144—1056] on the respondent.

(The cards are marked “Ferro Time-cards No. 1.”)

Mr. FRANK.—I will offer the clock cards of September 11th, September 25th and September 28th, and ask that they be marked Ferro Clock Cards No. 1.

(The clock cards are marked “Ferro Clock Cards No. 1.”)

Cross-examination.

Mr. McCLANAHAN.—Q. Do you remember, Mr. Ferro, the occasion of the “Hilonian” being at the works of the United Engineering Works in August and September, 1909?

A. Do I remember what?

Q. Read the question, Mr. Reporter.

(The Reporter reads the question.)

A. Yes, sir.

Q. What other steamers were there at the same time, or during any portion of the time?

A. I believe the steamer “Plant” was there at the time; I believe so.

Q. Was not the steamer “Buckman” there also?

A. No, sir, not that I remember of.

Q. Let me refresh your memory, if I can, by asking you to look at your time-card under date of August 31st, and answer the question. Was not the

(Testimony of Marcell Ferro.)

steamer "Buckman" there also?

A. She must have been there if I put it down, because that is my handwriting.

Q. So that the "Buckman" was there as well as the "Plant," was she not? A. Yes, sir.

Q. Was not the steamer "Iaqua" there during that time? A. Yes, sir. [1145—1057]

Q. She was there? A. Yes, sir.

Q. Mr. Ferro, who was the engineer in charge at that time? A. At night?

Q. Yes. A. I was.

Q. Were you the only man on watch?

A. Yes, sir.

Q. This plant, in your charge at night, was run for the purpose of supplying light to the ships on which you were making repairs, was it not?

A. Yes, sir.

Q. And when no work was being done on the ships at night, of course, you did not run the power plant?

A. No, sir.

Q. And you only ran the power plant for the time that the work was going on? A. Yes, sir.

Q. So that if there was two hours' night work on a ship, and that ship was the only one at the yards at the time, and you were supplying light for the work you would supply two hours of light for that ship, would you not? A. Yes, sir.

Q. That was the sole purpose of your running the power plant at night? A. Yes, sir.

Q. I hand you, Mr. Ferro, your card of August 26th, and would like to have you explain the entry

(Testimony of Marcell Ferro.)

there with reference to the hours worked. There are two numbers on the card, as you will see, one is 5295 on which you have charged nine hours' straight time and six hours' overtime. A. Yes, sir.

Q. And the other is 5316 on which you have made a charge of nine hours' straight time and six hours' overtime. Will you explain to which number that charge was made?

A. Well, I put down on my card the actual hours I worked at night, and if there was any other job running in the yard besides the job I was working for, I put the numbers for that [1146—1058] job and the hours I have run for that job down also.

Q. You don't mean by that you worked double straight time and double double time? A. No, sir.

Q. That card means six hours was all that you worked and all you were entitled to?

A. Yes, sir.

Q. Although you have made a double entry on your time? A. Yes, sir.

Q. You do not know to which job number that time was charged? A. No, sir.

Q. That is work done in the office? A. Yes, sir.

Q. That entry simply means that the power plant for that night was run in the interest of both those ships for that length of time?

A. Yes, sir, they both were working for that length of time.

Q. For both those ships? A. Yes, sir.

Q. Now, you say that the cards represent the actual time you worked? A. Yes, sir.

(Testimony of Marcell Ferro.)

Q. Don't you remember at that time 8½ hours was a day's work?

A. I went to work at half-past four and quit at half-past seven, and seven o'clock sometimes. I don't know what they worked on the outside. I don't know what they done.

Q. You are a member of the union?

A. I don't belong to any union.

Q. And did not at that time? A. No, sir.

Q. What time do you say you commenced work?

A. 4:30.

Q. And you would quit when? A. 7 or 7:30.

Q. That would constitute your longest night's work? A. Yes, sir.

Q. I hand you your card of August 24th, calling your attention to the red numerals on the left-hand side of the card, and ask [1147—1059] you what they are, the figures in red ink.

A. That is when I did not get the number in the evening when I was going to work. When I would come in the morning I would get it from the time-keeper and he would mark it down right in front of me.

Q. What does 244 on that card mean?

A. That is day work.

Q. What job does that mean?

A. In the shop; in the yard.

Q. Did you do any day work?

A. Yes, sir; when they first started in; the first job that the "Hilonian" started in.

Q. In running the power-house? A. No, sir.

(Testimony of Marcell Ferro.)

Q. That 244 does not refer to running the power-house? A. No, sir.

Q. Nor does the one hour on that card refer to running the power-house? A. No, sir.

Q. That is outside work? A. Yes, sir.

Q. But the 14½ hours charged to 5295 was running the power-house?

A. Yes, sir, was running the power-house.

Q. Mr. Ferro, I call your attention to your card of August 27th and ask you if you can explain the entries there under No. 5316, which is the number for the steamer "Plant," I take it. A. Yes, sir.

Q. Take the first entry 5316, "12 hours lights."

A. Yes, sir.

Q. What does that mean?

A. That is running the power for the lights.

Q. Burning the power for the steamer "Plant" for the lights? A. Yes, sir.

Q. What is this "9½ hours air-compressor," what does the "9½ hours air-compressor" mean?

A. For the steamer "Plant." [1148—1060]

Q. Running the air-compressor at night?

A. Yes, sir.

Q. And the entry under 5295, the 9 hours straight and the 6 hours overtime, was for lights for the "Hilonian"?

A. For lights for the "Hilonian," yes, sir.

Mr. FRANK.—I might save you some cross-examination there, Mr. McClanahan, by relieving you of the anxiety that you have been charged for those items that have been used on the other steamers.

(Testimony of Marcell Ferro.)

Mr. McCLANAHAN.—How are you going to relieve me from my anxiety?

Mr. FRANK.—You will not find it in your charges.

Mr. McCLANAHAN.—Q. I call your attention to your card of August 31st, and ask you if your explanation of your card of August 27th, with reference to the steamer “Plant” applies also to this card of August 31st, with reference to the steamer “Buckman”?

A. No, sir.

Q. It does not? A. No, sir.

Q. What does the 14 hours charged to the steamer “Buckman,” on your card of August 31st, under No. 5336, mean. Lights, does it not?

A. Yes, sir, lights and air.

Q. Not lights and air for 14 hours?

A. 14 hours the lights, and 12 hours the air-compressor.

Q. Is not that your explanation of the other cards?

A. Yes, sir, the same as on the other cards.

Q. And the charge to 5295—which was the “Hilonian”?

A. Yes, sir.

Q. —was the lights? A. Yes, sir, the lights.

Q. I will call your attention to your card of September 1st, and ask you what the charge for 7½ hours under No. 5320, [1149—1061] is for.

A. Running the air-compressor for steamer “Iaqua.”

Q. That was done at night, was it? A. Yes, sir.

Q. I call your attention to your card of September 3d, and ask you what the job number 5332 in red ink stands for.

(Testimony of Marcell Ferro.)

A. I don't remember what boat it was running for. Unless it was an extra number on the "Hilonian" job, I don't know.

Q. If 5332 is not a "Hilonian" job number, it is the job number for some other ship that was there at that time? A. It must be.

Q. And that 12 hours represents the time used on the air-compressor at night? A. Yes, sir.

Q. The same power was utilized in the air-compressor work as in running the lights, was it not?

A. No, sir.

Q. Not the same power? A. No, sir.

Q. You had the same engine, did you not?

A. Yes, sir.

Q. One engine? A. Just one engine.

Q. That engine ran the lights and the air-compressor, did it not? A. No, sir.

Q. Explain that.

A. The power runs by a different power, altogether separate. The air-compressor is separate from the dynamo. They are two different engines.

Q. Have you two engines? A. Yes, sir.

Q. One drives the dynamo? A. Yes, sir.

Q. And one drives the compressor?

A. Yes, sir.

Q. I show you your card of September 21st, and ask you what the entry on that card at the bottom means, 15 hours charged to lights.

A. It must mean the same as all one and the same thing, just the lights and overtime. I put the lights

(Testimony of Marcell Ferro.)

down here, [1150—1062] and overtime up there (pointing).

Q. You have got first an entry under 5295 of 9 hours straight time, and next an entry of 6 hours overtime?

A. I don't put this down. I put this down, 9 and 6.

Q. I have not referred to anything except what you have put down, 9 and 6?

A. I did not put none of this here. (Pointing.) This I put down, the "15" with the ring around it.

Q. Your explanation of the 15 with a ring around it is, that it is simply your aggregate of your 9 and 6 hours time? A. Yes, sir.

Mr. McCLANAHAN.—I think I will have to see the time-book, Mr. Frank.

Mr. FRANK.—Very well. The book is not here now, but we will send for it.

(Thereupon the witness is temporarily withdrawn.) [1151—1063]

[Testimony of John Healy, for Libelant.]

JOHN HEALY, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Healy, you were a watchman in the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. As such watchman did you attend to the delivering of stores in the night-time from the storeroom?

A. Yes, sir, that was my job to attend to the storeroom, and watching.

Q. When men come for material from the store-

(Testimony of John Healy.)

room during the night-time how did you determine what jobs they were working on?

A. Well, I would ask them what they were working on, and they would tell me what it was numbered. If they did not know the job number I had the specifications right there, and the job number was written on it.

Q. Would you consult the list of job numbers?

A. Yes, sir, I would look it over; it was the only job that they were working on.

Q. Now, I show you some stock cards, Mr. Healy, being part of Roberts Stock Cards Numbered 24, Watchman, and numbered A2274, A2297, A2351, A2429, A2723, A3231, A3201, and part of Roberts Stock Cards Numbered 23, and numbered A6477, A6479, and A6495, and ask you whether or not those are cards for material issued by you from the shop at the times indicated on the several stock cards.

Mr. McCLANAHAN.—I object to the question as immaterial.

A. Yes, sir, I wrote all those and issued the stock.
[1152—1064]

Q. You said just now when we were going over them together that 2351, the first item there, is not in your handwriting. Look at it again and see whether it is or not. (Handing.)

A. No, that is not my handwriting.

Q. Not your handwriting? A. No, sir.

Q. Do you know whether you issued it at that time? A. Which?

Q. These articles.

(Testimony of John Healy.)

A. I know what is in my writing there, that I issued all of them; but the order-book was laying on the desk and the chances are that the other watchman gave the top order out.

Mr. McCLANAHAN.—I will have to ask that the reply of the witness, as far as it refers to the other watchman, be stricken out as hearsay.

Mr. FRANK.—Q. And the card 2723, is there any part of that that is not in your handwriting?

A. No, that is all mine.

Q. That is all in your handwriting?

A. Yes, sir; that is all in my handwriting.

Q. The material on those cards, then, you issued to the men who applied for them at the night-time, for these particular numbers? A. Yes, sir.

Q. I mean the job numbers.

A. Yes, they gave me the job number, or if they did not give me the job they would tell me what they were working on, and I would look it up on the specification and put it down.

Q. These numbers were included, were they not, 6477, 6479 and 6495—you looked these over, did you? [1153—1065] A. Yes, that is all mine.

Q. I now show you A3240 of Nelson Stock Card No. 2. A. Yes, sir, that is all mine.

Q. I now show you A3264 of Stephen Cronin Stock Card No. 1. A. Yes, that is all mine.

Q. I now show you A3212 of Roberts Exhibit Stock Card No. 22. A. Yes, sir, that is all mine.

Q. After you issued this material and wrote out the stock cards, what did you do with the stock cards?

(Testimony of John Healy.)

A. Left them on the storekeeper's desk in the book.

Q. In the morning when you left did somebody come and relieve you?

A. I know the men came to work and Mr. Roberts—we always locked the storeroom, and he was the only one that had the key, and he opened it and the book was on the desk.

Mr. McCLANAHAN.—Q. What is that?

A. We left the book on the desk as we got it at night, and we would lock the door, and he was the only one that had the key. I had it and my partner and Mr. Roberts.

Mr. FRANK.—Q. And your partner?

A. There was two of us watching. Bob Campbell was the other one.

Mr. FRANK.—That is all.

Mr. McCLANAHAN.—No cross-examination.

Mr. McCLANAHAN.—I want, Mr. Frank, to know whether you have for me the original number placed by Mr. Christy on the original specifications when first received by him, and which you said at the last adjournment you would furnish to me.

Mr. FRANK.—The report that I have received is that after a [1154—1066] careful search through all their records they find no specifications with any number on them. The only numbers that they have are the list numbers and the original number given to the job. If you want the original number given to the job I can give that to you.

Mr. McCLANAHAN.—I would like the original

number given to the job when originally brought into the office.

Mr. FRANK.—The original number given to the job when it was originally brought into the office was 5295.

Mr. McCLANAHAN.—We will admit that the items of material set forth in schedule 2 and the first part of schedule 3—not the second page of schedule 3—were furnished to the “Hilonian.” We cannot admit the number of hours of work alleged to have been performed. We admit the material was furnished but we do not admit the value of the labor and material.

(A recess was taken until 2 P. M.) [1155—1067]

AFTERNOON SESSION.

[Testimony of Marcell Ferro, for Libelant (Recalled).]

MARCELL FERRO, recalled, cross-examination resumed.

Mr. McCLANAHAN.—Q. You are perfectly sure that the time placed by you on these cards was the actual time worked? A. Yes, sir.

Q. How many actual hours of work did you work before you had any overtime—before you were entitled to overtime?

A. A day's work. It would consist of a day's work, 8½ hours, I think, we were working at that time, or 9. I don't remember which it was.

Q. Well, suppose it was 8½ hours.

A. The rest of that was overtime then.

(Testimony of Marcell Ferro.)

Q. All of your cards here show 9 hours as the straight time. If the day was an 8½ hours day at that time, how do you account for the fact that the card shows 9 hours? A. I put it down, 9.

Q. That is, you worked the full day of 8½ hours and ½ hour more? A. Yes, sir.

Q. And then you got overtime after that?

A. Yes, sir.

Q. Why did you not get overtime after you worked 8½ hours, if that was the day's time?

A. I don't remember if it was 8½ or 9 hours at that time.

Q. Assume it was 8½ hours. Assume that that was a working day at that time. Why did you put down the other half hour?

Mr. FRANK.—That is not a fair question. He cannot answer that question by making an assumption that may or may not be the fact. That is not a fair question at all. It may be that 9 hours was the day for him. [1156—1068]

Mr. McCLANAHAN.—I do not want to ask the witness an unfair question.

Mr. FRANK.—You can see for yourself that it is not a fair question.

Mr. McCLANAHAN.—Q. I want to have an explanation why this 9 hours was put down if the working day was 8½ hours. Can you explain that?

A. I worked the full length of time from 4:30 to 7:30, whatever time it was. I worked right straight through.

Q. That is, you paid no attention to the 8½ hours?

(Testimony of Marcell Ferro.)

A. No, sir; we had nothing to do with that at all. I worked right straight through.

Q. So that your cards showing 9 hours' straight time represented the actual 9 hours worked by you?

A. Yes, sir.

Q. And if there was any other time than that above the 9 hours it was overtime? A. Yes, sir.

Q. Do you remember the rush job on the "Buckman" when the "Hilonian" was there?

A. No, sir.

Q. Don't you remember running the power-house at night for the shop while the "Buckman" was over here on this side, on a rush job?

A. Not to my knowledge. I don't remember running the power for the "Buckman" while the "Buckman" was on this side at all.

Q. You do not remember? A. No, sir.

Q. I see all this time charged to the "Hilonian" is charged under job No. 5295; who gave you that job number? A. The timekeeper.

Q. This number 244 on your card of August 24th, is a shop number, is it?

A. Yes, sir, it was out in the yard; doing yard [1157—1069] work.

Q. And on that day, August 24th, you worked actually 24 hours?

A. I started to work nights that day for the "Hilonian."

Q. Answer my question. You worked 24 hours actual work on that day? A. Yes, sir.

Q. And 14½ hours of that was overtime charged

(Testimony of Marcell Ferro.)

to the "Hilonian"? A. Yes, sir.

Q. You are quite clear, are you, Mr. Ferro, that when work at nights ceased on the ship then your work ceased in the power-house? A. Yes, sir.

Q. That is, when they were not working on the ship they could not use your power? A. No, sir.

Redirect Examination.

Mr. FRANK.—Q. You have spoken, Mr. Ferro, of the "Plant," of the "Buckman," and the "Iaqua." Do you remember whether you furnished light to those vessels? A. No, sir.

Q. Do you know whether or not they had their own engines, and their own light?

A. I could not say. I was not down in that part of the yard to see whether they had their own lights or not.

Q. You do not know whether you furnished light to them there?

A. The electrician generally tells me when he is going to hook in any light, for any other ship in the yard. He never came down and told me nothing, so I don't suppose they had any lights put in, and must have used their own lights.

Q. On your card here of August 27th, I notice 5316, whatever that number is, or whatever ship that number is, as "12 hours light." Whatever that is, then, that would be a true record, would it? A. Yes, sir.

Q. Mr. Ferro, you did not know what they were doing on board [1158—1070] ship, did you?

A. No, sir.

Q. You just ran your lights until you were told

(Testimony of Marcell Ferro.)

to turn them off, is that it? A. Yes, sir.

Q. Whether the men were using them at that time in the actual performance of labor on board of the ship, or doing other things for the ship, you don't know anything about? A. No, sir.

Q. So when you said on your cross-examination that you only ran the lights for the actual number of hours that work was performed on the ship you were making a guess at it, weren't you?

A. About running the lights?

Q. No. You were asked on cross-examination if you only ran the lights for the actual number of hours there was worked on the ship. You do not know what was going on on the ship, do you?

A. No, sir.

Q. Or how many hours they worked there?

A. No, sir.

Mr. FRANK.—I think that is all.

Recross-examination.

Mr. McCLANAHAN.—Q. You were paid, Mr. Ferro, for the number of hours shown on your card, were you not? A. Yes, sir.

Q. There would be no necessity to run your plant unless the lights were being used on the ship, would there? A. No, sir.

Q. You spoke of not going down to these other ships to see whether they were running their electric plants, or not. How far is your power-house from the ship where the work was being done?

A. It was the extreme end of the yard.

Q. How far would that be, a quarter of a mile?

(Testimony of Marcell Ferro.)

A. I should judge about a block or so, or half a block.

Q. What do you mean by a "block or so." Two blocks?

A. Half a block, or a block. [1159—1071]

Q. Half a block?

A. Yes, sir, I should say that is about the distance from the wharf down to the power-house.

Q. What is about the distance?

A. About a block, I should judge.

Q. A city block?

A. One of the blocks we have over in Alameda. I don't know how long they are.

Q. 800 or 1,000 feet?

A. I don't know how long they are.

Q. How long would it take you to walk down there?

A. I never timed myself in walking down.

Q. How far is your power plant located from the gate where you come into the yard?

A. I never judged what distance it was from the gate to the power plant.

Q. How long did it take you to walk it?

A. I never timed myself.

Q. You can give us some idea, can't you, how far it is?

A. I never timed myself to see how long it would take me to walk.

Q. Is it a quarter of a mile?

A. I don't know if it is a quarter of a mile, or $\frac{1}{8}$ of a mile. I could not say.

Q. Several blocks, is it?

(Testimony of Marcell Ferro.)

A. I could not say whether it is several blocks from there to the power-house.

Q. Does it take you five minutes to walk from the gate to the power-house?

A. I don't know how long it takes. I never timed myself to see how long it takes to walk from there to the power-house.

Q. The power-house and the gate are not right together, are they? A. No, sir, that is a sure thing.
[1160—1072]

Mr. FRANK.—I am going to Los Angeles to try a case, and I expect it will take me about a week, so we will have to adjourn until then.

Mr. McCLANAHAN.—When shall we adjourn to?

Mr. FRANK.—Had we better not leave it and I will notify you when I come back?

Mr. McCLANAHAN.—Why cannot we adjourn to a set time and then if you are not here—

Mr. FRANK.—We can do that, but then you will want it in the record that I want a continuance again. We ought not to have any trouble about it. I will take it up as quick as I can get back.

Mr. McCLANAHAN.—When do you expect to try your case in Los Angeles?

Mr. FRANK.—We commence on Monday.

Mr. McCLANAHAN.—How long will it take you?

Mr. FRANK.—We have considerable testimony and it depends on how the Court treats it.

Mr. McCLANAHAN.—Cannot we suggest some day next week to which we can adjourn?

Mr. FRANK.—Let it go over until Thursday of

next week, and then we will make such disposition of it as the circumstances require.

(Whereupon an adjournment was taken until Thursday, October 5th, 1911, at 10 A. M.) [1161—1073]

Thursday, October 5th, 1911.

Mr. FRANK.—When we adjourned last, Mr. McClanahan, you made certain admissions on page 1067 of the record regarding schedules 2 and 3, and you reserved some propositions which you said you would be prepared to answer this morning.

Mr. McCLANAHAN.—We cannot admit the labor charges on schedule 3, but we will admit the value of the material already admitted to have been furnished to the “Hilonian” as such values appear on schedule 2, and the first page of schedule 3.

Mr. McCLANAHAN.—That is the bill \$170.06, schedule 2, being dated September 24, 1909; and the bill of \$540.61, marked schedule 3, page 1, being the bill of October 25th, 1909, excepting the charges for labor on the latter bill. Is that right?

Mr. McCLANAHAN.—Yes. The exception commences with the charge of \$36, and ends with the charge of \$28.80. It is expressly understood that the respondent does not admit any of the charges appearing on the second page of schedule 3, amounting to \$226.35.

Mr. FRANK.—Page 2 of schedule 3, dated October 30th, 1909, and mentioned by counsel is withdrawn as being an error of mine, and improperly included in the libel.

Mr. McCLANAHAN.—That will necessarily reduce your claim by the amount of that schedule.

Mr. FRANK.—I suppose it reduces the amount in the complaint, no doubt, if I have added the figures up right.

Mr. McCLANAHAN.—You have. [1162—1074]

[Testimony of Edward S. Hough, for Libelant.]

EDWARD S. HOUGH, called for the libelant, sworn.

Mr. FRANK.—Q. What is your name?

A. Edward S. Hough.

Q. What is your business?

A. Consulting engineer and marine surveyor.

Q. How long have you been in that business?

A. In engineering business, 30 years.

Q. When you say “engineering” do you mean consulting engineer?

A. No, sir, the various grades from apprentice up.

Q. How long have you been consulting engineer?

A. About 13 years.

Q. Where at? A. San Francisco.

Q. How long have you been a marine surveyor?

A. The same term.

Q. In your capacity of consulting engineer and marine surveyor do you represent any shipping interests on this coast?

A. Yes, sir, the Bureau Veritas, International Register, and various steamer owners on the coast.

Q. Various steamer owners? Are you regularly employed by any concerns engaged in that business?

(Testimony of Edward S. Hough.)

A. I am retained by some.

Q. About how many, and what are they?

A. I am on regular salary from three.

Q. Who are they?

A. California and Oregon Coast Steamship, the Pacific Lumber and the Hammond Lumber.

Q. Besides these? A. No others.

Q. Though not regularly employed, are you not in general practice for all who wish to employ you?

A. Yes, sir, open to engagement.

Q. And in that capacity have you had an extended experience? A. During that 13 years.

Q. And in your business of consulting engineer and marine surveyor have you had to have repairs made and oversee repairs for vessels? [1163—1075]

A. Yes, sir.

Q. That is a large portion of your work, is it not?

A. Yes, sir.

Q. Pass on bills? A. Yes, sir.

Q. And in that capacity have you become familiar with the prices of material and labor prevailing in the port of San Francisco? A. I consider so.

Q. You were so employed in the year 1909?

A. Yes, sir.

Q. And knew the conditions prevailing at that time in the ship-building business?

A. Yes, sir. I was familiar with them.

Q. Familiar with the prices of material and with the prices of lumber? A. I consider so.

Q. The classifications of labor? A. Yes, sir.

Q. Now, Mr. Hough, I show you a bill attached to

(Testimony of Edward S. Hough.)

the libel on file in this cause, marked schedule 1, and dated September 27th, 1909, and ask you first to take up the detail of the material specified in said schedule which is to be found on pages 4, 5, 6, 7 and 8 of that schedule, and ask you to state whether or no the prices charged in said bill for the material therein specified were or were not the standard prices for such material prevailing in the port of San Francisco at that time. Take your time.

A. It will take considerable time, Mr. Frank.

Q. Take all the time that is necessary, Mr. Hough.

A. In the first place, it says, "Cast iron 4 cents a pound." Now, a casting will vary in price according to its character, and it does not state anything as to the nature of these castings. Without a specification I cannot tell you if 4 cents is right. That same arrangement will apply to brass bronze. With regard to rod iron, it does not state whether this is in bulk or short lengths. The price will vary accordingly. The price on Challenge [1164—1076] Metal, 45 cents, is a standard and is right.

Mr. McCLANAHAN.—Q. Confine your statement of values to August and September, 1909.

A. Yes. This bill is September 27th?

Q. Yes, 1909, the values of that month.

A. Yes, sir. Now, sheet iron, steel plate, channel and angle iron, and angle iron repeated, no specifications as to bulk or short lengths; the same argument as to rod iron and bronze. Red lead putty, 10 cents, is right. Rivets 5 cents per pound, I believe to be correct. What are these A. S. K. rivets?

(Testimony of Edward S. Hough.)

Q. They should be C. S. K.

A. Are these cat rivets or bullneck rivets, or what?

Mr. McCLANAHAN.—I object to the witness asking for information that does not appear on the bill.

Mr. FRANK.—Q. Give the prices for each class of rivets, so that we can supply the testimony afterwards with respect to that.

A. Mr. Frank, there are various classes of counter-sunk rivets. May I ask if this is an oil rivet?

Mr. McCLANAHAN.—I shall have to object.

A. (Contg.) It is simply to get at it.

Mr. FRANK.—Q. Go on and make your explanation, Mr. Hough.

A. I am unable to pass on 7 cents.

Mr. FRANK.—I object to your interrupting. Let the witness finish and then you can make any objection you want to the testimony.

Mr. McCLANAHAN.—I have not said a word to the witness. The witness volunteered he could not pass the estimate on the item as it stands now.
[1165—1077]

Mr. FRANK.—Q. If there are different classes of rivets in your mind that have different prices, give us the several classes with the prices; that is because you do not know the nature of the rivets.

A. I should like to have explained what the nature of the rivet is.

Q. That is what you are here for.

A. I cannot tell you what that rivet is.

(Testimony of Edward S. Hough.)

Q. But you do tell us what the difficulty is, why you cannot pass on it, so that we can intelligently supply the information when the time comes.

A. I would say, then, for any counter-sunk rivets that for the small quantity of 13 pounds, as specified, 7 cents is right. C. R. Steel, 214 pounds at 5¢, right. Forging 4¢ for 3231 pounds, I believe, to be fair. Sheet brass, 5 pounds at 30¢ a pound, right. Rod brass, 3 pounds at 50¢, right only if cut to lengths. Bronze patch, with a word preceding it, unintelligible.

Q. Manganese.

A. 35¢, right. May I ask a question?

Q. Yes; go on.

A. Am I to take all these pipe items separately?

Q. Whichever would be the fairest way, Mr Hough.

A. If it were my own bill I should total these items, these small items. May I ask a question of Mr. Curtis?

Q. Go on.

A. How many pounds of rags go to a sack?

Mr. CURTIS.—I could not tell you that offhand. There are various sizes; they use odd and ends sacking to fill the rags into.

The WITNESS.—May I make a suggestion?

Mr. FRANK.—Q. Go on.

A. From 20 feet $\frac{3}{4}$ pipe to three pounds King packing on the following page— [1166—1078]

Q. That is at the bottom.

A. Yes, \$2.40. Covering all those small items, ex-

(Testimony of Edward S. Hough.)

cepting the rags, which I *cannot* on, I would allow to go—I would pass.

Q. What do you mean by that?

A. Because I think they look right; they are small items.

Mr. McCLANAHAN.—Q. Do you include “template wood” at the top of the second sheet, where there is no quantity given, \$6.20?

Mr. FRANK.—If you will kindly reserve your cross-examination, Mr. McClanahan, until I get done with the witness, it will facilitate matters very much.

Mr. McCLANAHAN.—I permitted Mr. Curtis to interject his evidence into the case. I thought it would expedite the matter by having Mr. Hough clear that up.

Mr. FRANK.—All right.

Q. Clear it up, Mr. Hough.

A. If it were my own bill, I should not question it. I will add to that, unless I had reason so to do, when I examined the work.

Q. By that I suppose you mean, Mr. Hough, when you examined the work that quantity of template wood used would be indicated by the nature of the work; is that right?

A. I should see the amount of template wood used and would then know its value. Shall I go on?

Q. Yes.

A. 1145 pounds of check floor plate, 5¢ per pound; does not state if in bulk or cut.

Q. What do you say about that?

A. I am unable to say anything.

(Testimony of Edward S. Hough.)

Q. If in bulk, what would be the price?

A. The price purchased at the works, or at the yard?

Q. The price that the yard would deliver it on a job to the ship? A. Probably half a cent less.

[1167—1079]

Mr. McCLANAHAN.—Q. Less than what?

A. Less than 5¢, probably 4½¢.

Mr. FRANK.—Q. And if cut what about the price?

A. It depends upon the expense of cutting; I am unable to say.

Q. Let us get that clear; what do you mean by that?

A. It might be 5¢ or 6¢ or might even be 10¢.

Q. Then 5¢ would be the lowest value for cut; is that right?

A. It might be 4¾¢ cut, Mr. Frank. I cannot tell you. It depends upon the labor put in.

Q. Then 5¢, according to your view, for cut check floor plate would not be out of the way?

Mr. McCLANAHAN.—I object to the question as leading and suggestive. The witness has testified on the subject fully.

Mr. FRANK.—I claim the right to lead this witness, if I see fit.

Q. How about that, Mr. Hough?

A. Will you repeat that question again?

Q. Then 5¢, according to your view, for cut check floor plate would not be out of the way?

A. No, sir. 200 lbs. No. 14 galvanized sheet-iron

(Testimony of Edward S. Hough.)

5¢, I think right. 145 lbs. round and flat iron 3¾¢; 290 lbs. of blue steel—

Mr. McCLANAHAN.—Wait a moment.

A. I was going to take 3 or 4 items together.

Q. All right.

A. 220 Norway Iron 5¢; 8 lbs. band-iron at 5¢ and 21 lbs. of Russian iron at 10¢.

Mr. FRANK.—Q. Let us understand it: all these items of iron at 5¢ you consider what?

A. I am going to tell you now, Mr. Frank. 21 lbs. of Russian [1168—1080] iron at 10¢, all those items I consider fair. Template wood, I cannot say anything about.

Q. That is, because it depends on the quantity of which you are not informed?

A. Yes, sir. 5 lbs. of sheet-brass 30¢; 35 lbs. brass rods, 30¢, and 63 lbs. bronze rod 35¢; 5 lbs. sheet-copper 30¢; 3 lbs. ½ inch brass pipe, 35¢; 95 lbs. of sheet zinc, which would be 10¢, are right. Candles, I am not familiar with. 17 gallons of gasoline; 10 gallons of coal-oil; 5 gallons of Polar-oil—omit that Polar-oil, please—gasoline and coal-oil are right. Polar-oil I cannot pass on. 102 lbs. of rags, omit.

Q. That is, you are not able to pass on them?

A. You buy them by the sack. I am unable to say the weight. It will take a little time to go through these bolts.

Q. Take your time. That is what we are here for. Time is absolutely of no consequence. It is the bill we are after. A. Can I have a slip of paper?

Q. Yes. A. Now, bolts.

(Testimony of Edward S. Hough.)

Q. What items? How much does what you are going to speak of include?

A. I am going to give you item \$5.12; 30¢; \$5.20; \$8.38; 40¢; 30¢; \$2.48, I think are right. 24 Washers \$1.50, unable to pass on.

Q. Why are you unable to pass on them?

A. I don't know what the sample looks like. It says, "Cut-washers as per sample." I don't know what the sample looks like. Brass nuts, amounting to \$1.98, I am unable to pass on.

Q. Why, Mr. Hough?

A. They may be special nuts. It does not say standard. Items 6¢ for sleeves; 5¢ for a reducer; 88¢ for brass screws; 15¢ for galvanized tacks, I believe are right. 500 lbs. cement; 1600 lbs. sand, are right. 44 16-candle power electric lamps, are billed at the figure usually [1169—1081] charged by machine-shops. 16 plugs for \$4.80, I am not able to pass upon.

Q. Why not?

A. I don't know the plug. 3½ inch by 27 inch studs, 90¢, is right. 300 feet of No. 18 Marine portable cable—can I ask a question?

Q. Certainly. What is it?

A. That is rubber covered?

Mr. McCLANAHAN.—I object to the question.

A. (Continuing:) I am unable to pass on it.

Mr. FRANK.—Q. You are unable to pass on it because you do not know whether it is rubber covered or not; is that it? A. Yes, sir.

Q. If it is rubber covered what would be the price?

(Testimony of Edward S. Hough.)

A. If it is heavy rubber covered Navy cable the price is right. 2 copper corrugated gaskets \$8, unable to pass on. No size given. 8 rolls of friction tape, \$2, right. 5 lbs. of black powder, \$2.50, I don't know anything about it. 23 lbs. of lubricating compound, not familiar with it. 1½ gallon of anti-fouling paint, \$2, for such a small quantity perhaps right. 12 lbs. solder, \$3, right. 3 lbs. of brass wire gauze, all right. 5 lbs. of smoothon, I am not familiar with the price. 15 lbs. of brown soap, is all right. 3 lbs. of graphite, all right. 73 feet of teakwood, \$18.25, cannot pass on.

Q. Why?

A. In the first place, I am not familiar with the price of teak. It does not say whether that is board measure or running feet. Sawing teak, \$5.50, unable to pass on. 11 lbs. of tallow, \$1.10, right. 13 lbs. of litharge, right for this quantity. 1 gallon of glycerine, right for this quantity. 62½ inch hex nuts, \$4.40 I cannot pass on. [1170—1082]

Q. Why?

A. It does not state if they are standard nuts, black or finished. 250 feet of No. 14 rubber covered wire, cannot pass on. I am not familiar with the price of that wire No. 14. 75 gallons of distillate, is right. 10 lbs. of glazier's putty, is right. 5 corrugated lights for \$5.50, I don't know what they are. Supplying bitumastic solution, I don't know anything about—about this particular light. I shall have to wade through some more bolts.

Q. All right.

(Testimony of Edward S. Hough.)

A. I cannot certify to these bolts. There are no lengths given.

Q. How far does that take you down?

A. \$27.03.

Q. Just that item? A. Yes, sir.

Q. Why not?

A. There are no lengths given to the bolts. Item 24¢ and 40¢—do you want the specifications for this?

Q. No. It follows immediately after what you have just testified to.

A. 40¢ again, 45¢, 75¢, 30¢, are correct. \$2.10 for 6 lbs. of solder, is incorrect.

Q. Why do you say it is incorrect?

A. For 8 lbs. of solder \$2.00 is correct.

Q. I do not just understand your course of reasoning from what you have said. Do you think because Mr. McClanahan pointed out to you in another part of the bill a charge of \$2.00 for 8 lbs. of solder, that this charge cannot be correct?

A. No, sir; I do not think because Mr. McClanahan pointed anything out to me that it is incorrect.

Q. Why do you say that?

A. Because I stopped at \$2.10 to go back to find some more solder which was charged at a different figure. Mr. McClanahan may point out anything he pleases. [1171—1083]

Q. Let us not get off on that issue.

Mr. McCLANAHAN.—You started it.

Mr. FRANK.—It is because you found a charge of \$2.00 for 8 lbs. in another part, that you conclude \$2.10 in this part is not correct? A. I do not.

(Testimony of Edward S. Hough.)

Q. Let us know your reason; I am trying to find your reasoning.

A. I conclude \$2.10 is wrong for 6 lbs. of solder.

Q. Why?

A. Because I have previously stated \$2.00 is correct for 8 lbs. of solder, and that is what we pay.

Q. There might be different prices at different times, might there not?

A. I am asked to state what I know about the prices existing on this date.

Q. I understand. I am asking you concerning these facts to elucidate it. That might also be true.

A. I don't know anything of extenuating circumstances in that item. [1172—1084]

Q. By that last answer do you mean to say that you do not know whether or not the price may have varied during that term or that you do know that the price did not vary?

Mr. McCLANAHAN.—I object to the question on the ground there is no evidence being given here by the witness except as to the date of September, 1909.

A. During which time?

Mr. FRANK.—Q. During the period of August and September, 1909, covered by this bill?

A. I know of no variation in the price of solder during that term.

Q. That is what you mean by your answer about extenuating circumstances; is that right?

A. Or anything else which might affect the price. Now, as to this packing, I shall need to refresh my

(Testimony of Edward S. Hough.)

memory before certifying. I can only do so at my office.

Q. We will take that up later with you then. How will you undertake to refresh your memory?

A. How long?

Q. In what manner—so that we may know.

A. I went to look up the figures.

Q. Which you have used?

A. Which I used at that time.

Q. Now, that includes what items?

A. That would be \$1.40 for 2 pounds of Amazon, \$28.80 for 36 pounds of King packing, \$20.00 for 50 pounds—no, the Flax packing is right; I believe to be right. Can I make a statement here?

Q. Go on, if it is germane to the issues.

A. I am treating these values always as proper charge from a machine-shop—

Q. That is what we are after.

A. (Contg.)—not from a packing factory.

Q. That is right; it is the machine-shop that is selling it.

A. 9 pounds of Gladiator packing is right. For 33 pounds of [1173—1085] black rubber. I am unable to certify at that date.

Q. Why?

A. Rubber varied. That class of rubber packing varied 5 cents a pound.

Q. How do you mean by “varied”?

A. It was up and down.

Q. This price that is charged here—

A. Is 30 cents a pound.

(Testimony of Edward S. Hough.)

Q. 30 cents a pound? A. Yes.

Q. On which side of the 30 cents did it vary, both above and below?

A. Yes; according to the quantity taken.

Q. That is it might be all the way from 25 to 35 cents, according to the quantity taken?

A. According to quantity taken, lots taken. I would like to defer some of these because there is a lot of stuff there which I am a little uncertain of.

Q. You mean until after recess? A. Yes.

Q. Do you want to take the record with you?

A. Yes.

Mr. FRANK.—Have you any objection to his taking the original?

Mr. McCLANAHAN.—That is the original on file.

Mr. FRANK.—Yes.

Mr. McCLANAHAN.—I have no objection.

(A recess was here taken until 2 P. M.) [1174—1086]

AFTERNOON SESSION.

EDWARD S. HOUGH, direct examination resumed:

Mr. FRANK.—Q. Go on, Mr. Hough.

A. 2 lbs. of Amazon packing; 36 lbs. of King packing, and 50 lbs of Flax packing.

Mr. McCLANAHAN.—You have already testified to the Flax packing and the Amazon packing.

Mr. FRANK.—Not as I understand. If he has he can testify again.

Mr. McCLANAHAN.—He has.

(Testimony of Edward S. Hough.)

Mr. FRANK.—It will do no harm if he has.

Q. Go on, Mr. Hough.

A. I believe these items to be correct.

Q. How about the Gladiator packing?

A. I was going to deal with that. I have only got as far as the Flax packing. It does not state what character of Gladiator packing this is. According to my office record Gladiator packing varies from 30¢ to \$1.20 per lb., packing of Gladiator make. Pipe, amounting to \$50.64; fittings, amounting to \$11.61—there is one item here not clear, that is, 1½ something, that I don't know.

Q. It is brass. Assume it is brass.

A. I assumed it to be a fitting, ½ inch fittings amounting in total to \$3.58, and fittings amounting to \$6.17, I can find no fault with them. Can I read forward through a lot of small stuff here? They are legion.

Q. Yes. [1175—1087]

Mr. McCLANAHAN.—Q. Just read the money items?

A. 50¢; 36¢; 35¢; \$5.22; 98¢; 35¢; 51¢; 12¢; 26¢; \$5.30; \$6.17; \$10.50; \$36.50; 60¢; 60¢; \$5.25; 60¢; 50¢; \$4.

Q. You have skipped one? A. Yes.

Q. Settle these you have just checked off. What are they, right or wrong?

A. In my opinion they are right and customary—\$1.75 I cannot pass on.

Mr. FRANK.—Q. Why?

A. The specification “2 corrugated copper gas-

(Testimony of Edward S. Hough.)

kets" is not sufficient to judge. \$4; \$5.20; I believe to be right. \$2, I know nothing of. The specification is "2 1½ India oil-stoves, I am not acquainted with them.

Q. Oil-stones? A. It says "oil-stoves."

Mr. McCLANAHAN.—Q. Do not change it on the record but assume it is oil-stones.

A. I have not touched it.

Mr. FRANK.—Q. If it is oil-stones, do you know anything about that?

A. No, sir. Brass swivel hasp—I suppose that is some kind of a door-swivel, but there being no specification I cannot pass on it.

Q. 90¢?

A. 90¢. \$1.40; 30¢, correct. 6 lbs. of Asbestos tape, a little higher than we are accustomed to pay.

Q. What do you mean by that?

A. What we have had in asbestos tape, I find is from 75¢, but it is not billed from the United Engineering Works.

Q. Bought in large quantities or small quantities?

A. As we happen to need it, large or small.

Q. I mean, are they provided to you by iron works?

A. No, sir; that is from the concern carrying that stuff in town and retailing it as well as wholesaling it. [1176—1088]

Q. You will understand that the question that is addressed to you is, what is the usual, ordinary and customary price charged by the several iron works and machine-shops engaged in ship-building?

A. I have no record of any being billed to us.

(Testimony of Edward S. Hough.)

Q. Then you would not know what, under those conditions, would be the fair price. Is that it?

A. I think not. 50¢—\$1.50; \$21, correct. 23¼ new style try-cocks, I don't know what these are. 1 6 inch face compound Ammonia gauge, \$17.75, I cannot pass on. 1 engine lubricator, \$2, I cannot pass on. 2 knuckle forgings for \$4.20, ditto.

Mr. McCLANAHAN.—Q. You mean you cannot pass on it?

A. No, sir. Alter and installing steam and vacuum gauge-pipes \$30, I cannot pass on. 30¢; \$9, correct. Galvanizing 8 pieces of plate, \$4.55, I cannot pass on. 60¢, right. Pattern work, \$324.10, I cannot pass on. That completes the material.

Q. Now turn to the next page which has the labor.

Mr. McCLANAHAN.—We will save you the trouble of going through that labor, by admitting that the price per hour is the proper price to be charged by a shop for the labor.

Mr. FRANK.—Under the different classifications stated there.

Mr. McCLANAHAN.—Yes, for the labor. Of course it is understood that we are not admitting by this admission, that the labor was performed as set forth in the bill. We are simply admitting the rate of wage paid for that labor to be correct.

Mr. FRANK.—That we may thoroughly understand each other, Mr. McClanahan, do I understand that in that admission, you include that that rate of wages is the proper rate of wages for an 8½ hour or 8¾ hour day, whatever it may have been [1177—

(Testimony of Edward S. Hough.)

1089] at that time, on the sliding scale?

Mr. McCLANAHAN.—My admission does not go that far. My opinion goes simply to the rate of wage per hour as shown by the bill as being the customary rate charged by shops at that time.

Mr. FRANK.—I understand you, then, which is practically not an admission of that rate of wages.

Q. Now, Mr. Hough, you were acquainted with the fact, were you not, that during a certain period in 1909, there was a change from a 9-hour day by degrees in a sliding scale to an 8-hour day?

Mr. McCLANAHAN.—I understand Mr. Frank, then, that you do not take my admission?

Mr. FRANK.—I take your admission for what it is worth. Your admission does not admit the whole proposition. I am not compelled to cease from examining the witness on the subject because you have given a qualified admission which does not reach the merits of the case.

Mr. McCLANAHAN.—My admission was unqualified as far as it went and was made simply to save the record and to avoid encumbering it any more than is necessary. If you do not want my admission I shall have to withdraw it.

Mr. FRANK.—I want your admission. I accept it for everything there is in it.

Mr. McCLANAHAN.—All right. Confine your examination, Mr. Frank, please, to matters not admitted.

Mr. FRANK.—That is what I am doing precisely.

(Testimony of Edward S. Hough.)

Read the question, Mr. Reporter.

(The Reporter reads the question.)

A. There was a reduction of hours from 9 by quarters or by [1178—1090] halves, I forget which, until we subsequently reached the 8-hour day.

Q. What was the custom and practice among all of the iron works engaged in the shipbuilding business at that time with respect to the charges for labor as affected by that sliding scale?

Mr. McCLANAHAN.—I object to the question as unintelligible.

Mr. FRANK.—Then the witness will elucidate it.

A. If I may review the hours of labor in question antedating 1909, we had 10 hours to a day's work, for which we had specified rates classified according to the tool or the skilled or unskilled help employed. After the strike, when the men called for 9 hours, we had the same rates for the day's performance as before. That rate continued regardless of the reduction in the hours worked. We got 9 hours, I think 8 hours and $\frac{3}{4}$, and reductions by quarters, I think, until we reached the 8 hours. We paid, however, and are paying as far as I know, the same rate for a tool and a man, or a man on board of ship, and we simply figure that it costs six, seven or \$8, or whatever it may be, to get a day's work, whatever that may be, in the shops and under their agreements with the unions.

Q. Well, so as to make that more clear, Mr. Hough, when the number of hours that the men actually worked were decreased, did or did not the number of

(Testimony of Edward S. Hough.)

hours charged decrease?

A. We paid—our time-card which called for 9 hours, we paid for 10, and we are still paying for 10.

Q. You are paying for 10?

A. We are paying for 10. We could get no reduction when this sliding-scale took place.

Q. In other words, instead of increasing the charge of each [1179—1091] man per hour they increased the number of hours over that which was actually worked, so that the charge was for a 9-hour day at that rate, instead of for an 8½ hour day. Is that right?

A. Exactly. We paid for 10 hours' work. The rate has not been reduced. We simply get less work for that money, and we figure we are paying 25 per cent or thereabouts more for our work now, than prior to the strike.

Q. That we may get this clear, and that there may be no misunderstanding about it, when the men actually worked 8½ hours a day, instead of raising the rate per hour, they raised the number of hours sufficient to make the same multiple as if they had raised the rate per hour multiplied by the actual number of hours of work. Is that right?

A. They did for some time. They brought that up to correspond with the 10 hours.

Q. And that was the practice during this time, was it?

Mr. McCLANAHAN.—I object to the question upon the ground that we are not to be bound by any practice.

(Testimony of Edward S. Hough.)

Mr. FRANK.—Go on and answer the question, Mr. Hough.

A. That was my understanding of our bills, or the bills coming from those shops, with which I have had to do.

Q. Well, you have had to do with all of the shops, have you not?

A. I have to do with most of them.

Q. And it was the common customary mode of making those charges. Is that right?

Mr. McCLANAHAN.—I object to that upon the same grounds, that we are not to be bound by the custom.

A. As I have stated in those shops, with which I have had to do, yes.

Mr. FRANK.—Q. In other words, the rate per hour expressed in [1180—1092] this bill was the standard rate per hour for an 8½ hour day charged as a 9-hour day.

Mr. McCLANAHAN.—I object to that question upon the ground that the witness has not so testified.

Mr. FRANK.—He is the man who has testified.

A. I will not state standard.

Q. Why not, Mr. Hough?

A. For the reason that rates have varied lately in the different shops 5¢ an hour on what is classed as a medium tool.

Q. All the works with which you have dealt have made their charges in that way, have they not, and you have accepted them?

A. All the works with which I have had to deal

(Testimony of Edward S. Hough.)

have not all had exactly the same charge per hour.

Q. Whatever their charge per hour may have been, the multiple they charged per hour by the number of hours charged to you made the same result per day as this does? A. That condition was common.

Q. In other words, for one class of work they would charge \$6 a day for an 8½ hour day; is that right?

A. Are you assuming that to be a charge?

Q. Take it from the bill. They would charge \$6 for an 8½ hour day, but in subdividing it into hours were charging at the rate of 60 cents and add the additional time making it a 10 hour day, is that right?

A. I have not exactly followed you word for word. We pay for 10 hours regardless of the number of hours worked. We pay the 10-hour rate, but variations in the shop rate may be slight whether it is \$6.50 for a medium tool, or \$7.50 for a medium tool in another shop, we pay that price for a day's work, a day's work consisting of 8 hours at the present time. [1181—1093]

Q. The 10-hour day was for work done on the ship out of the shop, was it not?

A. You say 10 hours worked on the ship?

Q. No. 10 hours were charged against you for a less number of hours worked on the ship, whatever it was? A. Yes, sir.

Q. How much was it that was actually worked?

A. From 9 hours down.

Q. And in the shop how many hours a day was charged up against you?

(Testimony of Edward S. Hough.)

A. I cannot say just now.

Q. Was it not 9 hours?

A. I cannot say, Mr. Frank, positively.

Q. Have you any way in which you can refresh your recollection on that subject?

A. Only by looking up bills at that time.

Q. You will have an opportunity to do that later and we will take that up with you? A. Yes, sir.

Q. So that we may get this thing straight then: this rate of wages per hour was charged for less than a 9-hour day a sliding scale down to 8 hours and charged for as having occupied 9 or 10 hours, as the case may be, whether it is in the shop or on the ship.

Mr. McCLANAHAN.—I object to that upon the ground that the witness has disclaimed any knowledge of the hours in the shop at that time.

Mr. FRANK.—That is right, but I am assuming, now, he will be able to verify that. All I am attempting to do is to get this thing in the shape that the person who has to pass on it will understand how the charge is made. It is somewhat difficult to make a statement of it.

A. You want me to answer now?

Q. Yes.

A. The hours on a time-card were increased to correspond with that delay charge that I have mentioned. [1182—1094]

Q. So that the multiple of the time of the hours worked, multiplied by this rate would be equal to the actual time worked multiplied by a higher rate sufficient to make the same amount per day; is that right?

(Testimony of Edward S. Hough.)

A. I do not know that I have got your question.

Q. Read the question, Mr. Reporter. I think that is correct, but at the same time I want to get it so that other people will understand it.

(The Reporter reads the question.)

A. It sounds like that.

Q. In other words, instead of raising the price per hour, they simply raised the hours?

A. Raised the hours.

Q. So that the result of the charge for a day's work would be the same, is that right?

A. That is right.

Mr. FRANK.—Now, I understand, Mr. McClanahan, your admission to include the classification?

Mr. McCLANAHAN.—I think I so stated, the classification of the labor.

Mr. FRANK.—Q. Now, Mr. Hough, we will go back to the material. You stated this morning that you were enabled to pass upon the charge in this bill for cast-iron because the bill does not state anything concerning the nature of the castings. Do you remember that? A. I do.

Q. Now, independent of the nature of the casting, have you not uniformly paid 4¢ per lb. for cast-iron?

A. I paid 4¢ a lb. for cast-iron, yes, but I have always known what I am paying for. In this case I know nothing about it.

Q. Has there ever been any kind of cast-iron that you have paid a different rate for?

A. Yes. I have paid 6 cents. [1183—1095]

Q. 6 cents? A. Yes, sir.

(Testimony of Edward S. Hough.)

Q. Any other rates that you have paid?

A. I have paid $3\frac{3}{4}$.

Q. What would constitute the difference?

A. The size of the casting.

Q. It would have to be a very simple casting, would it not, to be less than 4 cents a lb.?

A. Yes, sir, a very simple casting.

Q. Now, with respect to the cast brass, have you not uniformly paid 30¢ a lb. for that?

A. We have paid 28¢ and have paid 35¢.

Q. You have paid 35¢? A. Yes, sir.

Q. So the same remark applied to that as to the iron? A. Yes, sir.

Q. That the 28 cents would be a very simple casting?

A. Yes, sir. It is a question of simplicity and quality.

Q. Now, with respect to the bronze, have you not always paid as high as 35¢ a lb. for the bronze?

A. I will not be sure on that, Mr. Frank. I think we have.

Q. You think you have?

A. I think we have.

Q. Now, with respect to the rod-iron. If it has not been sold in bulk, do you not consider 4 cents a fair price? A. I think it right for 60 lbs.

Q. Now, with respect to the sheet-iron, have you not been in the habit of paying at least 4¢ per lb. for the sheet-iron?

Mr. McCLANAHAN.—I object to that question as immaterial. The question is not what the witness

(Testimony of Edward S. Hough.)

had been in the habit of paying, but what the market value of sheet-iron is.

A. I stated this morning that I could not pass correctly on these matters on account of the slimness of the specification. [1184—1096] If I could know what the stock is for I could talk more to the point.

Mr. FRANK.—Q. Just kindly answer the question, Mr. Hough, just read the question to the witness, Mr. Reporter.

(The Reporter reads the question.)

A. We have paid 4¢, yes, for sheet-iron.

Q. And you have paid more, have you?

A. Yes, sir, for a small piece.

Q. Then by your answer there is no specification respecting sheet-iron—you mean simply that under some conditions it might be higher?

Mr. McCLANAHAN.—I object to the question on the ground that the witness' remark as to specifications applied not to the sheet-iron alone, but to numerous other items on the bill.

A. We have paid higher, as I have stated.

Mr. FRANK.—Q. That does not answer my question, Mr. Hough. Kindly attend to it. Read the question to the witness, Mr. Reporter.

(The Reporter reads the question.)

A. Yes, sir.

Q. You understand I have limited that answer. I do not want to mislead you. I have excluded a lower price.

A. I thought I answered the question.

Q. I know, but I wanted you to understand the

(Testimony of Edward S. Hough.)

meaning of my question, so that you would not be mislead about it.

Mr. McCLANAHAN.—I submit that the question speaks for itself. I do not see there is any need of warning the witness. Why don't you ask him, Mr. Frank, if it might not be lower as well as higher?
[1185—1097]

Mr. FRANK.—I have asked the witness the question, and he understands it.

Q. You understand my question, do you not?

A. I do not understand that there is an answer coming, Mr. Frank. I thought I had answered it.

Q. Yes. You understand it in the sense in which I have told you I meant it?

A. That it may be higher?

Q. Yes. A. Yes, sir, it may be higher.

Q. Is that not a minimum price?

A. I will not certify to that because I cannot say positively. I do not remember having paid any less than 4 cents.

Q. That is what I want to get at, Mr. Hough.

A. My memory is not infallible.

Q. In other words, that is the usual price that you had been in the habit of paying, at least 4 cents?

Mr. McCLANAHAN.—I object to the question on the ground that it is not the measure of value what the witness has usually been paying for sheet-iron.

A. I will not say "usually."

Mr. FRANK.—Q. I do not want to get into any difficulty or conflict, Mr. Hough, about this. I simply want to be correct about it. I understand that

(Testimony of Edward S. Hough.)

you do not remember ever having paid a lower price than 4 cents? A. I do not.

Q. And that according to your present memory, you either paid 4 cents, or more?

A. We have paid more.

Q. Either 4 cents or more. Is that right?

A. I think so.

Q. Now, with respect to the steel plate, is not 4 cents a usual and customary price that you have been paying in your experience for that?

Mr. McCLANAHAN.—I object to the question on the ground [1186—1098] that that is not the measure of value that the witness has usually paid for steel plate.

A. The price charged us for steel plate, and angle worked with the plate, has been the same.

Mr. FRANK.—Q. What do you mean by the “same”? A. The same price per lb.

Q. 4 cents?

Mr. McCLANAHAN.—I object to the question upon the ground that the witness has not said 4 cents.

A. I said the same price per lb.

Mr. FRANK.—Q. You have paid for each of those items the same price per lb. Is that right?

A. Yes, sir.

Q. And that price has been 4 cents?

A. It has been 4 cents, and it has been higher, and I want to add, if I may, that we have paid higher prices when the quantities have been small.

Q. Then you would not undertake to say that the 4 cents in this case is an unreasonable price?

(Testimony of Edward S. Hough.)

A. I will not.

Q. You have not been in the habit of paying more than the market price for any of the things that you have received, have you, Mr. Hough?

A. No, sir, not if we knew it.

Q. And you keep posted on those things in your business? A. Fairly well.

Q. What is the standard length of an uncut rod of brass?

A. The standard length of an uncut rod of brass?

Q. Yes. A. I could not tell you.

Q. You don't know? A. No, sir.

Q. What did you mean, then, in speaking of the price of a rod of brass, that it is right if cut to lengths?

A. If they cut a rod they charge us an increased rate per lb. [1187—1099]

Q. And you don't know what the length of rods are so as to determine whether or not any given piece is cut?

A. Yes, sir. I can tell that a piece of rod 2 feet long is cut from a longer piece, because they all run longer than that.

Q. What have you in mind, then, as the length of a rod from which they are cut?

A. Well, I would not certify to the length of a box. I know them by sight, these rods. I have never measured them accurately and cannot tell you.

Q. You know them by sight?

A. Yes, sir. I have seen them coming in stock.

Q. Then you have a fair judgment as to what the lengths are?

(Testimony of Edward S. Hough.)

A. They will run 12 and 14 feet long sometimes.

Q. That is what I am trying to get at. Now, with reference to the check floor plate, Mr. Hough, have you ever paid less than 5 cents per lb. for that?

Mr. McCLANAHAN.—I object to the question as immaterial.

A. Have I paid less than 5 cents? I could not tell you without looking it up.

Q. You could not tell? A. No, sir.

Q. What is your present recollection?

A. I would rather not state.

Q. I am speaking, of course, with reference to the floor plate furnished by iron works in the work of repairing a vessel. A. Yes, sir.

Q. Would you ascertain that for us?

A. Yes, sir.

Q. Now, with reference to the rags, Mr. Hough; you spoke of not being able to say because you buy it by the sack. Are not your sacks weighed? Do you not buy really by the lb. when you buy it by the sack?

A. I do not know. I simply pay so much a sack.
[1188—1100]

Q. So much a sack? A. Yes, sir.

Q. Do you mean by that, that you have furnished the rags yourself?

A. No, sir. We buy them for the steamers.

Q. You buy them to supply your steamers?

A. Yes, sir.

Q. I am referring now to rags furnished by ship-builders in performing repairing work on ships.

(Testimony of Edward S. Hough.)

You do not buy them by the sack there, you pay for them— A. As we draw them from the store.

Q. Do you furnish them to the shipbuilder?

A. I say, we draw them from the store at the shipyard if we happen to need any.

Q. You draw them from the ship's stores; is that what you mean?

A. No, sir; we frequently draw from the United or the Risdon Iron Works, wherever we may happen to be.

Q. You draw them by the sack?

A. If a man wants a sack we tell them to send down a sack if we think we need it. We do not stop to weigh a sack of rags.

Q. Let us not get on the ragged edge of this small proposition. As a matter of fact, you have been paying bills of this sort right along?

A. Of this character; yes.

Q. In which rags have been issued by the iron works that you have not drawn, and been charged for by the lb.?

A. I expect so. If we ever get them they are in there somewhere.

Q. And you do not recall now how much a lb. you paid for them? A. No, sir.

Mr. FRANK.—That is all.

Mr. McCLANAHAN.—I prefer not to cross-examine the witness until you have entirely finished with him.

Mr. FRANK.—Finished what? [1189—1101]

Mr. McCLANAHAN.—With the witness.

(Testimony of Edward S. Hough.)

Mr. FRANK.—I give him to you now.

Mr. McCLANAHAN.—You have asked the witness to make search of his records for certain matters.

Mr. FRANK.—If that is the case I do not see why you cannot examine the witness now, because those items are very insignificant.

Mr. McCLANAHAN.—If you relieve the witness from that obligation, all right. I want you to finish with him, though, before I cross-examine him. The most recent item was check floor plating.

Mr. FRANK.—Is that all?

Mr. McCLANAHAN.—All that I can think of. I think there were one or two before that.

Mr. FRANK.—I do not understand that condition. That is what puzzles me. I see no reason why I cannot come back to it at some future time, if I want to. There is no reason why you could not come back to it on cross-examination if you want to.

Mr. McCLANAHAN.—I am entitled to have you finish entirely with the witness before you turn him over to me. If you have finished entirely with him that is one thing. If you have not let us finish the direct examination.

Mr. FRANK.—So far as the check floor plating is concerned, if you insist on that condition before going on, I will release the witness from making that examination at present.

Mr. McCLANAHAN.—(To the witness.) That was all that you were asked, Mr. Hough, to refresh your mind on, was it?

(Testimony of Edward S. Hough.)

The WITNESS.—I believe so.

Mr. McCLANAHAN.—Is that your understanding, Mr. Frank?

Mr. FRANK.—I think there were some other small items. [1190—1102] (After examination.) I do not see any other note of anything in my notes on the subject.

Mr. McCLANAHAN.—Then have you finished with the witness?

Mr. FRANK.—I do not understand, Mr. McClanahan, what you mean, have I finished with the witness. I have released the witness from the necessity of refreshing his recollection on those things and I have turned the witness over to you. I make this suggestion because if I knew exactly what you were at I might agree with you on it. Not knowing what you are at, I do not wish to curtail any right that I may have to examine the witness further. I have finished with him so far as I know at present.

Mr. McCLANAHAN.—There is no cross-examination. When are you going to again proceed, Mr. Frank?

Mr. FRANK.—Just as quickly as I can get my witnesses.

Mr. McCLANAHAN.—That is entirely unsatisfactory.

Mr. FRANK.—I know. It is unfortunate.

Mr. McCLANAHAN.—I have got to have from you some definite statement as to the time you will take to finish the case, or I will have to apply to the Court to limit it. It is embarrassing to my client; it

(Testimony of Edward S. Hough.)

is expensive to my client; it is embarrassing to me to have this thing dragging on in this way. It seems to me that with the time and continuances that you have had you ought to have some definite idea as to when you can finish.

Mr. FRANK.—There are some things, Mr. McClanahan, that I do not wish to put in the record at this time. As you have just now put your speech in the record which would perfectly justify me in doing what I am. If the time ever arises for the explanation I will make it. I am doing everything I can [1191—1103] to get the witnesses, but I have been embarrassed by certain circumstances beyond my control and which could not be anticipated. I can let you know to-morrow. I cannot let you know to-day.

Mr. McCLANAHAN.—That is, you can let me know to-morrow what?

Mr. FRANK.—When I can go on.

Mr. McCLANAHAN.—That is not altogether satisfactory. When are you going to finish?

Mr. FRANK.—Just as quickly as I can get my case in.

Mr. McCLANAHAN.—What is your idea as to that?

Mr. FRANK.—It depends entirely on whether we can get these witnesses that we are seeking. I suggest, as to-day is Thursday, that we continue this until Monday morning, and I hope at that time to be able to go on.

Mr. McCLANAHAN.—Will you limit yourself un-

(Testimony of Edward S. Hough.)

til the close of next week to close your case?

Mr. FRANK.—There are three holidays next week. I will let you know Monday morning. I am not in a position to give you that definite answer that you want. Probably I will be on Monday. I am pursuing investigations that are not ripe and I cannot tell you. I am doing the best I can.

Mr. McCLANAHAN.—I give you notice now, Mr. Frank, that if on Monday you cannot give me some definite statement as to when you expect to close your case, I shall apply to the Court for a rule limiting your time.

Mr. FRANK.—All right.

Mr. McCLANAHAN.—And I now enter my protest at this continuance until Monday. I do not do that because I like to, Mr. Frank. We have one witness whom we have held here for weeks [1192—1104] paying his salary.

Mr. FRANK.—Is this for the record also?

Mr. McCLANAHAN.—Yes. And it is unfortunate that we have been so delayed.

Mr. FRANK.—I have offered to let you take his testimony at any time you wanted to. You could have done that just as easily as not. It is not necessary to detain him. Of course, if you wish to do so it is your privilege.

Mr. McCLANAHAN.—You do not know my case. This witness' evidence may depend on yours.

(An adjournment was here taken until Monday, October 9th, 1911, at 10 o'clock A. M.) [1193—1105]

(Testimony of Edward S. Hough.)

Monday, October 9th, 1911.

Mr. FRANK.—I am unable to go on this morning in consequence of not being able to procure the attendance of witnesses, and we will therefore adjourn until Wednesday morning, October 11th.

Mr. McCLANAHAN.—I protest against the adjournment.

(An adjournment was thereupon taken until Wednesday, October 11th, 1911, at 10 A. M.)

Wednesday, October 11th, 1911.

Mr. FRANK.—The witnesses not having appeared, I am unable to proceed this morning, and I ask to adjourn until Friday, October 13th.

Mr. McCLANAHAN.—We object to any adjournment at this time to Friday morning or any other time, and give notice that we shall apply to-day for an order limiting you in time in which your case shall be presented.

Mr. FRANK.—If you will give me a notice of your motion for the order so that I can present my side of the matter intelligently I shall be obliged. You might just as well make your motion on Friday as to-day, if there is such a motion to be made, as there may be some affidavits necessary to be filed to show the cause of these continuances as I have not attempted to set them out in the record.

Mr. McCLANAHAN.—I will serve you with a copy of the notice of motion within 15 or 20 minutes, and advise you now that the Court will be asked to pass on the motion at 2 o'clock this afternoon.

(Testimony of Edward S. Hough.)

(An adjournment was thereupon taken until Friday, October 13, 1911, at 10 o'clock A. M.) [1194—1106]

Friday, October 13th, 1911.

EDWIN S. HOUGH, recalled.

Mr. FRANK.—Q. Mr. Hough, I understand that you are going off to-morrow?

A. I expect to, Mr. Frank.

Q. To be gone some time?

A. I may be gone for some weeks.

Q. You were up here the other day and testified in this matter. On that occasion you were subpoenaed, were you not? A. Yes, sir.

Q. And were here under what was the compulsion of the subpoena? A. Yes, sir.

Q. You had declined to come up of your own free will?

Mr. McCLANAHAN.—I object to that as incompetent, irrelevant and immaterial. I fail to see the drift of this examination.

A. I did not see fit to come up.

Mr. FRANK.—Q. You declined when you were requested to; is that the fact? A. Yes, sir.

Q. And your present position is that of one who is not willing to testify in this matter on behalf of the libelant?

Mr. McCLANAHAN.—I object to that as not warranted by anything that is shown by this witness' prior examination, entirely uncalled for, and for the life of me I cannot see the drift of the examination.

Mr. FRANK.—You will see it very shortly.

Q. Answer the question, Mr. Hough.

(Testimony of Edward S. Hough.)

A. I have refused to testify on behalf of the United Engineering Works.

Q. You are present this morning also under the same compulsion as last time?

A. I am. [1195—1107]

Q. I understood you last time to say that you were Surveyor of the Bureau Veritas? A. Yes, sir.

Q. In that capacity I presume it is your business to keep informed concerning the vessels in port, their condition, repairs and things of that kind?

A. Yes, sir.

Q. At the time of the repairs here in question on the steamer "Hilonian," were you over at the United Engineering Works?

A. Yes, sir, but not at that vessel.

Q. You were there on other business?

A. Yes, sir.

Q. You saw what was going on on that vessel at that time? A. No, sir.

Q. You saw the nature of the work that was going on, did you not?

A. I was not on board of the "Hilonian."

Q. That is not an exact answer to my question, Mr. Hough, and I should like to have you answer the question. Whether you were on board or not is not the question.

A. I saw more or less engine work on trucks being conveyed to and from the machine-shop.

Q. And from what you saw you were able to form some judgment as to the nature of the work that was being performed on those engines, were you not?

(Testimony of Edward S. Hough.)

A. Do you mean the character or extent of the work?

Q. Both or either?

A. I don't consider that I saw sufficient to enable me to state accurately either.

Q. That is, you would not be able to state accurately the extent of the work or accurately the character of the work? A. No, sir.

Q. But you saw enough to know in a general way both, did you not?

A. An inaccurate way. Can I go further on that?

Q. If you have anything further to say? [1196—1108]

A. I should not have known the value of the work unless I had seen the bills.

Q. I do not exactly understand the answer, Mr. Hough. Will you explain it a little further?

A. The first time I had any knowledge of the extent of the work there was when I saw the bills in your office under my subpoena.

Q. But the nature of the work you knew from what you saw at the iron works while it was going on, did you not?

A. I knew there was engine work going on, Mr. Frank.

Q. The nature of the engine work you knew from what you saw at that time? A. To some extent.

Q. Subsequently, Mr. Hough, were you applied to by the Matson Navigation Company for the purpose of doing any work in their behalf with respect to the facts of this case in litigation?

(Testimony of Edward S. Hough.)

A. I was asked if I would serve them in this case.

Q. You were asked if you would serve them in this case. Who applied to you for that?

A. Mr. Diericx.

Q. What passed between you and him in that respect?

Mr. McCLANAHAN.—I object to that as immaterial.

A. I told him that I would rather not serve.

Mr. FRANK.—Q. Give us the entire conversation.

Mr. McCLANAHAN.—I object to it as immaterial, and having no bearing on the issues of the case.

A. I don't remember.

Mr. FRANK.—Q. What did he ask you to do in that connection?

Mr. McCLANAHAN.—I object to that as immaterial.

A. He asked me if I would make him some estimates.

Mr. FRANK.—Q. Some estimates of what?
[1197—1109]

A. Of the values of the repair work.

Q. Of the values of the repair work?

A. Yes, sir.

Q. Did you go into detail as to the nature of the estimates that he required?

Mr. McCLANAHAN.—The same objection.

A. No, sir.

Mr. FRANK.—Q. What was your reply?

A. Just as I stated, that I would rather not serve.

(Testimony of Edward S. Hough.)

Q. Was not your reply more specific than that, Mr. Hough?

Mr. McCLANAHAN.—The same objection.

A. It may have been more extensive; not more specific.

Mr. FRANK.—Q. You gave him a reason, did you not, for not being able to do it?

A. I think I said something about being a friend of both parties, and I would rather not serve.

Q. Now, as a matter of fact, Mr. Hough, did you not tell him that it would be impossible for anybody to make anything near an accurate estimate of the value of that work?

A. I don't remember having stated that, Mr. Frank.

Q. Did you state something to that effect then?

A. I may have done so.

Q. Now, don't you recall, Mr. Hough, that you did tell him it would be impossible for anybody to make an estimate upon that work, that would be of any value?

A. I may have suggested to Mr. Diericx that I considered it impossible to determine accurate valuations upon repair work which I had never seen.

Q. Did you not state it broader than that, Mr. Hough?

A. I may have stated that it is impossible to make estimates on work which I have never seen.

Q. To make estimates on work which you have never seen? [1198—1110] A. Yes, sir.

(Testimony of Edward S. Hough.)

Q. Did you not also tell him at that time that it was impossible for anybody to make any estimates on any repair work that they had not seen done?

A. I cannot say.

Q. Is it not your opinion at the present time that that is the fact?

A. I have found it unsatisfactory.

Q. Unsatisfactory? A. Yes, sir.

Q. In other words, it is not possible in your opinion for anybody to make estimates upon the repair work that they have not seen done?

Mr. McCLANAHAN.—I will have to ask Mr. Frank what is the object of this examination. Is it rebuttal, anticipated rebuttal of our evidence?

Mr. FRANK.—Yes, that is what it is. The man is going to be away and we do not know just exactly when we will be able to get him. While we do not know exactly what your evidence is going to be, we have had some intimation that it will be of that character, and we want to use the evidence of this man if it is possible.

Mr. McCLANAHAN.—We shall have to object to the question on the ground of its materiality.

Mr. FRANK.—Q. Read the question, Mr. Reporter.

(The Reporter reads the question.)

A. It is improbable they would arrive at correct values unless by guess.

Q. And as a result of that, Mr. Hough, three or any other number of men making estimates of such work independent of each other, would be sure to

(Testimony of Edward S. Hough.)

arrive at as many different results, would they not?

A. That is uncertain.

Q. What?

A. That would be uncertain. [1199—1111]

Q. What do you mean by it would be uncertain?

A. Because it is possible by guess as I suggested.

Q. Their guess, most likely every one of them would be different, would it not?

A. I cannot tell what a man may guess, Mr. Frank.

Q. Is that the best you can do with it?

A. If I say anything else I am committing myself to something that I would have to guess at myself.

Q. In your experience, Mr. Hough, as a matter of fact, have you not known in attempts at estimating in that way, that the estimate would be as much as fifty and sometimes one hundred per cent out of the way?

A. I cannot answer that question.

Q. Why? Have you had no experience on the subject?

A. Yes, sir, but 100 per cent is an awful lot.

Q. What percentage would you fix?

A. I have seen a rough estimate as correct as a carefully made estimate.

Q. Go on.

Mr. McCLANAHAN.—I object to the witness going on until there is a question put to him.

Mr. FRANK.—Q. Go on and answer the question.

Mr. McCLANAHAN.—I submit the question has been answered.

A. If I must go on—

Mr. FRANK.—Q. Give me a fair answer to my

(Testimony of Edward S. Hough.)

question, Mr. Hough.

A. In my own work I have looked at a vessel requiring repairs and made an offhand estimate which I would call an educated guess, and that estimate has been as accurate as a subsequent estimate made in detail.

Q. An estimate of repairs as extensive as this, and a vessel in the condition this vessel was? [1200—1112]

Mr. McCLANAHAN.—I object to that upon the ground that the witness has not shown his knowledge of the extent of the repairs done to the “Hilonian.”

Mr. FRANK.—Oh, yes, he has been over the whole business.

Mr. McCLANAHAN.—I submit the bill is not the criterion.

A. I was not acquainted with the condition that you refer to of the vessel before repairs.

Mr. FRANK.—Q. In the case to which you refer it was not the case of large repairs where the vessel was in a very bad condition?

A. Not so extensive as this one.

Q. Go on and answer my question fairly as originally asked. You understand it?

A. Will you read the question again, Mr. Reporter?

Q. Read the question.

(The Reporter reads the question.)

A. Does this question carry with it the fact that the estimator never saw the work?

Q. Yes, as it was being done, or the work to be

(Testimony of Edward S. Hough.)

done when the machinery is dismantled?

A. And did they see it subsequently?

Q. After it was finished? A. Yes.

Q. We will come to that afterwards. We will take that condition first.

Mr. McCLANAHAN.—I object to that as immaterial.

A. I would like to know in order to be able to answer your question if the estimators at any time saw the work?

Mr. FRANK.—Q. What do you mean by “saw the work”?

A. Either in its completed form, or any stage during its progress.

Q. How can they see it in its completed form? Do you know as a matter of fact after large repairs of that sort are done a great deal of it is covered up?

A. Yes, sir, but if they have a [1201—1113] specification and have pointed out to them what was done their estimate would be more accurate than if they did not see it.

Q. How could they have pointed out to them what was done, Mr. Hough, when you know as a matter of fact the conditions which surrounded the work at the time of its being done is something that cannot be translated and given to somebody to estimate from. You know that fact, do you not?

A. I appreciate what you state, but if an engineer tells me that a piston-rod has been taken out and has never been trued, but if he also tells me and shows me a specification which provides that the ma-

(Testimony of Edward S. Hough.)

chine-shop take the piston-rod out, trues it and puts it back again, you can have two widely different estimates on the value of that repair work.

Q. The fact of taking a piston-rod out would only be a simple element in a piece of work of the nature of what you have seen in these bills that have been presented to you?

Mr. McCLANAHAN.—I submit that there is nothing in the record to show that this witness has seen anything in these bills that would enable him to answer the question put to him intelligently.

Mr. FRANK.—The witness will determine that for himself.

A. No. I submit this, Mr. Frank. I take the piston-rod as an instance. There is more expense at times in taking the simple operation you suggest of taking a piston-rod out than there is in trueing it and putting it back.

Q. That is true. There may be more expense, Mr. Hough, but the degree of the difference in expense depends, does it not, upon the particular conditions on board of that vessel at the time that particular piece of work was done, and varies in each vessel with the particular condition surrounding it. Is that not true? [1202—1114] A. Yes, sir.

Q. Now, you have not answered my question yet about estimates under the contract we have been talking of. You say they vary not as much as 100 per cent. How high is a percentage, would you think, as in your opinion the maximum limit?

A. I will assume that estimators are required to

(Testimony of Edward S. Hough.)

suggest the cost of certain repairs. They are handed a specification of such repairs and are shown about the engine-room or fire-room, as the case may be, what has been done. Those estimators should come within 20 per cent.

Q. Within 20 per cent? A. Yes, sir.

Q. But they might not come within 50 per cent is also a common experience, is it not?

A. I should not think it so on a piece of work as I suggest.

Q. You are assuming that the work when done is visible, are you not?

A. To a very large extent, yes.

Q. And if it is not visible the opportunity to get within 20 per cent would be a great deal lessened, would it not? A. Yes, sir.

Q. And you yourself, as I understand you, declined to undertake this because you could not conscientiously make an estimate which you think would be in any wise satisfactory?

A. I felt I could not do it justice.

Q. After you had declined to make this estimate, did Mr. Diericx offer you what you call a retainer in this case?

Mr. McCLANAHAN.—I object to that as immaterial.

A. I don't know if that is the name for it.

Mr. FRANK.—Q. Well, he offered to pay you?

A. He did offer, yes.

Q. And what were the conditions of the payment?

A. I accepted. [1203—1115]

(Testimony of Edward S. Hough.)

Q. You accepted the payment, and that payment was for what purpose? A. Hands off.

Q. To keep your hands off of the case?

A. That is right.

Q. By that you understand you are not to render any opinion, or any services whatsoever, to the United Engineering Works with respect to the facts of this case; is that it?

A. That is what I intended to do.

Q. That was the condition as you understood what was requested of you for the money that was paid to you. Is that right?

A. I think that was my understanding at the time.

Q. You did not misunderstand what was requested of you, Mr. Hough? A. I think not.

Mr. FRANK.—Take the witness.

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Hough, when Mr. Diericx first approached you it was with the request that you make an estimate on the work that had been done on the “Hilonian” by the United Engineering Works? A. Yes, sir.

Q. And I understand you declined to do that because you felt that you had not seen the work and therefore you could not make a proper estimate. Is that correct? A. I think that was so, yes.

Q. Now, did not the fact that you were friendly to the United Engineering Works also have a part in your refusal to make the estimate?

A. I think I so stated to Mr. Diericx.

Q. In other words, you are friendly to both par-

(Testimony of Edward S. Hough.)

ties, and did not care to mix in the controversy?

A. Yes, sir.

Q. And this lack of particular knowledge as to the work that had been done was a secondary consideration, was it not, or was your friendship for both parties the sole consideration for [1204—1116] your refusing to make the estimate?

A. No, sir, it was not the sole consideration. I had not seen the vessel's work to any degree, and that together with the other matter of being friendly to both parties put me under a little restraint.

Q. It gave you an excuse for declining to act for either party, did it not? A. Yes, sir.

Q. And if the United Engineering Works had come to you with a request similar to Mr. Diericx, you would have declined on the same grounds, would you not?

A. I have never considered it from that standpoint, Mr. McClanahan.

Q. Consider it now?

A. I think that might have been the case.

Q. You would have declined on the same ground that you declined to make an estimate for Mr. Diericx? A. I think so.

Q. Subsequent to this request to make the estimate, and your declination of it, is it not a fact that Mr. Diericx gave you a retainer, and by the payment of that retainer required your advice in special matters connected with this case not involving an estimate on the work necessary. In other words, did you not obligate yourself to be at the disposal

(Testimony of Edward S. Hough.)

of Mr. Diericx or the Matson Navigation Company in certain matters that did not involve the making of an estimate in connection with this case?

A. I do not think that is so.

Q. What was your purpose in accepting a retainer from Mr. Diericx? A. Neutrality.

Q. You were neutral anyway without a retainer, were you not?

A. It seems so, but I think that was our understanding.

Q. Suppose Mr. Diericx had come to you with a proposition subsequent to having paid you a retainer, and asked you your expert opinion with reference to the use of a bending slab, [1205—1117] would you have given it under that retainer?

A. Yes, sir, I would so.

Q. Was not the understanding that you were to do something in that nature if called upon?

A. I do not think that was very clearly set forth, Mr. McClanahan.

Q. Yet now you would say that if that proposition or any similar proposition had been put to you, Mr. Diericx, or the Matson Navigation Company, you would have rendered an opinion under the retainer which had been given? A. I should.

Q. Mr. Diericx understood, did he not, at the time he gave you the retainer, that you were going to be neutral in the case?

A. I do not know, I am not very clear, and there may be a misunderstanding between myself and Mr. Diericx according to these developments.

(Testimony of Edward S. Hough.)

Q. Your evidence, as I have understood it, clearly shows that you did intend to be neutral before you got the retainer?

A. I have suggested that it was likely that had the United Engineering Works asked me to serve them, it is likely that I would have excused myself.

Q. Pursue the same course you did with Mr. Diericx? A. Being friendly to both parties.

Q. Now, it was subsequent to your excusing yourself to the Matson people because of your friendliness to both parties, that you accepted this retainer?

A. I think it was the next day. Mr. Diericx asked me, I think, if I could serve to the extent of not serving the United Engineering Works,—I will not be sure of his words, and I do not wish to misquote him—and to that extent I would be neutral.

Q. Did not Mr. Diericx mention to you the possibility of requiring [1206—1118] your advice on certain matters that would not involve the estimate of the value of this work?

A. He may have done so, and if he had reminded me of that condition, and had come with a suggestion as you propose in regard to a bending-slab I would have done my best to give him an answer.

Q. You do not want to be put in the position of having taken a retainer from the Matson Navigation Company for being neutral in a matter that you probably would have kept neutral in anyway?

A. As I said before, my neutrality would be to that extent where I would not serve the United Engineering Works.

(Testimony of Edward S. Hough.)

Q. And that neutrality and that frame of mind existed before you accepted a retainer from the Matson Navigation Company?

A. Yes, sir; to a great extent. I felt friendly to both parties.

Q. Now, Mr. Hough, referring to the examination that you have undergone by Mr. Frank, do you mean to put yourself on record as saying that competent engineers, marine engineers, cannot, after having seen the work of repair which has been done on a vessel, estimate the value of that work?

A. No, sir; I do not.

Q. Is it not done every day? A. Yes, sir.

Q. Is it not the only means that your principals have of determining the value of work?

A. That is one of the means; yes.

Q. Is it not the most accurate means of determining the value of that work after it has been done, inspecting the work and accepting the opinion of experts?

A. I would not say it is the most accurate means. It is a means of checking.

Q. A means of checking what?

A. The cost of a piece of work [1207—1119] as represented by the contractor.

Q. That means is resorted to a great deal, is it not? A. In the case of experts.

Q. The use of experts in checking the work and the price of work paid by a contractor?

A. Where there is any question as to the value of the work, but it is not the custom to call an expert

(Testimony of Edward S. Hough.)

to state the value of every piece of work done.

Q. But where there is a question, that is the means of checking the work, is it not?

A. That is the means; yes.

Q. Is it not the most accurate means of doing so?

A. I know of no other.

Q. You know of no other more accurate?

A. I know of no more accurate means than employing the best man I can find to know of that particular class of work.

Q. And show him the work, telling him what was done, and letting him see what was done as far as it is possible to see it and taking his estimate. That is the most accurate means of checking the work, is it not?

A. It can only be accurate provided that that man is shown all that is done.

Q. I say it is the most accurate means of determining the value of that work?

A. I think so; yes.

Q. If that means did not exist and was not recognized, there would be no way of checking the work of a shop if it was disputed?

A. No, sir, I suppose not.

Q. Did you, Mr. Hough, have any conversation with any member of the United Engineering Works, after you had been retained by the Matson Navigation Company? A. Yes, sir.

Q. Who was it? A. Mr. Eva.

Q. What was the conversation?

A. Mr. Eva asked me if I [1208—1120] serve

(Testimony of Edward S. Hough.)

the United Engineering Works in a suit against the Matson Navigation Company.

Q. What did you tell him? A. I declined.

Q. What was the balance of the conversation?

A. He then told me that unless I could serve them at his request, it would be necessary for them to send for me.

Q. Did you not tell him why you could not serve them?

A. I don't think I told Mr. Eva that at that time.

Q. When was this conversation with Mr. Eva?

A. It would be about three weeks ago.

Q. Did he tell you at that time what he wanted in the nature of services from you?

A. He asked me if I could make him some estimates.

Q. Of what?

A. He did not state. Work, I think.

Q. Work on the "Hilonian"? A. Yes, sir.

Q. Estimates on the work that was being sued on in this case? A. He did not go any further.

Q. You understood that was it?

A. Yes, sir, I understood that.

Q. He wanted your estimates of the work that the United Engineering Works had done on the "Hilonian"? A. Yes, sir.

Q. And you declined on the ground that you had been retained already by the Matson Navigation Company? A. I let him understand that.

Q. He then said that he would have to subpoena you anyway?

(Testimony of Edward S. Hough.)

A. I do not know if he used the word "subpoena"; I think he said he would have to send for me.

Q. He would have to send for you?

A. Words to that effect.

Q. If you did not come voluntarily for the purpose of giving [1209—1121] him these estimates he would have to compel you to do so? That was the idea. A. I understood it that way.

Q. Did you have a talk with Mr. Eva after that one? A. No, sir.

Q. Did you have a talk with him before you were subpoenaed?

A. No, sir, I heard nothing more of it for several days, and I received a subpoena from Mr. Frank's office.

Q. Did you have a talk with Mr. Frank before you received the subpoena?

A. I was asked if I would go to Mr. Frank's office.

Q. Did you go? A. Yes, sir.

Q. You did? A. Yes, sir.

Q. What took place there?

A. Mr. Frank handed me a bill and asked me to make some comments on it.

Q. What was the bill? The bill sued for in this case?

A. I did not examine it. I saw it was a United Engineering Works bill and the name of the steamer "Hilonian," and I said "I cannot do it."

Q. What did Mr. Frank say to that?

A. I think he asked me why.

Q. What was it that you declined to do, to make

(Testimony of Edward S. Hough.)

an estimate of it?

A. I think Mr. Frank's words were, "Look down that bill and see if the charges are fair." I cannot quote it exactly but that is the impression on my mind.

Q. That is, he wanted an estimate on that work?

Mr. FRANK.—He did not say that.

Mr. McCLANAHAN.—Q. He wanted your opinion?

A. I think those were his words, "if the charges are fair."

Q. You declined?

A. I said I cannot do it. [1210—1122]

Q. What did he say then?

A. He asked me why.

Q. What did you say?

A. I do not think I gave any correct answer to that.

Q. Was Mr. Eva here at the time?

A. No, sir.

Q. Is that the extent of the conversation?

A. No, sir, something following that. I think Mr. Frank suggested that there had been a stopper put on.

Q. A stopper put in?

A. A stopper which prevented me doing as he required of me.

Q. That is, Mr. Frank suggested to you that you had already been retained by the Matson people?

A. I do not know whether he suggested, or actually stated so.

(Testimony of Edward S. Hough.)

Q. Then, without your informing him of the fact he advised you, as you remember it now, of his knowledge that you had been already retained by the Matson Navigation Company?

A. I am not clear enough on that situation to state so.

Q. Explain what you meant when you said that Mr. Frank suggested that there had been a stopper put in.

A. That I had been retained—it was evidently in his mind that I had been retained by the Matson Navigation Company or someone that represented them.

Q. You did not deny that, did you? A. No, sir.

Q. What was said after that? Did he still insist on your making an estimate? A. No, sir.

Q. What was said?

A. I think he told me he would serve a subpoena on me, and that was done that same afternoon.

Q. Was that all that was said in that conversation? A. I think so.

Q. Did he talk to you about the subject matter of his examination [1211—1123] this morning, at that time?

A. About this examination this morning.

Q. Yes, the subject matter of this examination.

A. I do not think so. I do not mean anything was said.

Q. You know what I mean by referring to the subject matter of the examination this morning?

A. Yes, sir.

(Testimony of Edward S. Hough.)

Q. That is the inaccuracy of expert testimony?

A. I do not think anything was said.

Q. At that time? A. No, sir.

Q. But he informed you he was going to subpoena you after this conversation? A. Yes, sir.

Q. And he did? A. Yes, sir.

Q. And you came here and testified?

A. Yes, sir.

Q. Going back again to the time when you received a retainer from the Matson Navigation Company, did you have a talk with anyone besides Mr. Eva subsequently connected with the United Engineering Works? A. Yes, sir.

Q. With whom? A. Mr. Curtis.

Q. What was that conversation and when was it?

A. Mr Curtis called on me; it would be about 10 days ago.

Q. Who is Mr. Curtis?

A. That gentleman standing over there.

Q. Who is he?

A. He is the cashier, I believe, of the United Engineering Works.

Q. He called on you about 10 days ago?

A. I think it is about 10 days ago.

Q. And what was the object of that visit. This was subsequent, was it, to the Eva call?

A. Yes, sir.

Q. Long subsequent?

A. It was, I think, about three weeks ago that Mr. Eva called, and I think about 10 days that Mr. Curtis called. [1212—1124]

(Testimony of Edward S. Hough.)

Q. What did Mr. Curtis want with you?

A. He asked me if I would certify to the conditions of time as worked in this city for some time back into 1906 or 1907, from that time on.

Q. That is, the labor conditions here?

A. Yes, sir.

Q. What did you say to that request?

A. I said I thought I could do that.

Q. What else was said? A. That is all.

Q. Did he furnish you with any data?

A. No, sir.

Q. Either then or subsequently?

A. He furnished me no data.

Q. Did you at that time inform Mr. Curtis that you were retained by the Matson Navigation Company?

A. No, sir, not to Mr. Curtis.

Q. You made no protest to Mr. Curtis in the matter? A. No, sir, not to Mr. Curtis.

Q. Yet you knew he was asking of you data to be used in this case? A. I suspected so.

Q. And that data you have used in this case?

A. I have.

Q. Under the subpoena? A. Yes, sir.

Q. Did you tell Mr. Curtis the result of your research into that matter before you were examined?

A. No, sir.

Q. Did you tell anyone? A. No, sir.

Q. Now, referring again to the time of the retainer from the Matson Navigation Company. Besides Mr. Eva and Mr. Curtis, did you have any talk with any other man connected with the United Engineering

(Testimony of Edward S. Hough.)

Works? A. No, sir.

Q. Did you ever have a talk with Mr. Gray?

A. No, sir, not upon those matters.

Q. Not upon this matter?

A. No, sir. [1213—1125]

Q. Since your examination under the subpoena last Thursday week, October 5th, have you had any further talk with any member of the United Engineering Works? A. Yes, sir.

Q. Who? A. Mr. Eva and Mr. Gray.

Q. Anyone else? A. No, sir.

Q. Was the conversation one conversation with those two men? A. No, sir.

Q. Separate conversations? A. Yes, sir.

Q. Which was held first? A. With Mr. Gray.

Q. When was that held?

A. Immediately after the examination here.

Q. In this office? A. Yes, sir.

Q. Was Mr. Frank present?

A. Immediately after the examination, not in this office, the examination in this office being subsequent to that—immediately afterwards.

Q. That is, you had the examination on the 5th in this office? A. Yes, sir.

Q. And it was subsequently immediately that you had a talk with Mr. Gray? A. Yes, sir.

Q. Where was that?

A. In the restaurant down here.

Q. What was that conversation?

A. I just told him to leave me alone.

Q. Was it a friendly conversation?

(Testimony of Edward S. Hough.)

A. Friendly, yes. To please leave me alone.

Q. What did he say?

A. He said, "I am helpless. I have nothing to do with the case."

Q. Now, let us be a little more particular. When you first saw Gray in the restaurant, how did the conversation open? [1214—1126]

A. I raised my fist at him in a friendly way and said, "You fellows leave me alone."

Q. And he then said what?

A. "I am helpless in that case, Hough."

Q. Did he explain his reasons for that statement?

A. No, sir.

Q. Do you know what he meant? A. No, sir.

Q. Is that all the conversation? A. That is all.

Q. Subsequent to that you had a talk with Mr. Eva again? A. Yes, sir.

Q. Where was that?

A. That was in their works.

Q. Were you called there? A. No, sir.

Q. How did you happen to be there?

A. I went down to test some machinery.

Q. You are doing work for them?

A. No, sir, not for them. They are doing work for me.

Q. And what was the conversation at that time?

A. I just said the same thing to Mr. Eva as I said to Mr. Gray.

Q. And what did he say?

A. He said, "We cannot leave you alone. This is up to my attorney."

(Testimony of Edward S. Hough.)

Q. And what else?

A. I said, "Supposing I refuse to testify?" He said, "You will have to testify under a subpoena." Nothing more was said. That was in a friendly way—he happened to be standing in his office—and not in a business way. I happened to pass his office and he was standing there.

Q. Did he intimate you were going to be called again? A. No, sir.

Q. Is that the extent of that conversation?

A. All that was said.

Q. How did you know you were going to be called again?

A. Mr. Frank told me that I might be wanted again. [1215—1127]

Q. When was that?

A. When I left here, the day that he examined me.

Q. After the examination did you have a talk with Mr. Frank? A. Yes, sir.

Q. What was the nature of that conversation?

A. I told him that I was likely to go away, and I wanted to know if that subpoena lasted any more than that day. He said, "We shall probably want you again," and he asked me which day I expected to leave town, and I told him.

Q. What else? A. That is all.

Q. After that did you have any talk with anyone else about your being examined again?

A. No, sir.

Q. How did you know that you were to appear

(Testimony of Edward S. Hough.)

here to-day? A. Mr. Frank notified me.

Q. And you had had no conversation with Mr. Frank prior to that except the one immediately following your first examination?

A. Mr. Frank asked me to ring him up, which I did; and he told me he would likely want me on Friday. That was two or three days ago.

Q. Have you not had any talk with anyone about the subject matter of your examination this morning? A. No, sir.

Q. So that when you came here, you did not know what you were going to testify to? A. No, sir.

Q. The uncertainty and inaccuracy of an estimator's opinion depends largely on circumstances does it not, Mr. Hough? A. Yes, sir; I think so.

Q. If you were handed the bill which has been rendered in this case by the United Engineering Works against the Matson Navigation Company for this repair work, you could not with any accuracy, without more, determine the value of that work? [1216—1128] A. I would not attempt it.

Q. And no reputable engineer would, would he?

A. I think not.

Q. What are the circumstances under which a reputable engineer would undertake to estimate the value of work done?

A. The conditions under which the work was performed.

Q. Must be known to him? A. Yes, sir.

Q. What else?

A. And he must see the work itself.

(Testimony of Edward S. Hough.)

Q. Now, is it necessary for a qualified engineer to actually see the work if he is told about it in the engine-room—for instance, you know that in some cases the jacking worm-wheel is inclosed in a case, and you cannot see it very well. Suppose you are told that the shop has made a jacking worm-wheel, or half of one, and it is under that casing there, and you are told the size, and know the size. Can you estimate the value of that with accuracy?

A. I should need to know just how it was fitted.

Q. And if you were told just how it was fitted?

A. I could make what I would call a fair guess.

Q. A fair guess? A. Yes, sir.

Q. Is that a fair answer to make, a fair guess, to that question?

A. In estimating a piece of work, unless it can be seen we are very apt to put a large figure as the price. I am assuming we are going to contract for a piece of work. Unless we can be shown the whole thing we do err on the large side to make sure.

Q. So, then, the erring of a reputable engineer is rather in favor of the shop, is it not, than against the shop where he has not seen the work?

A. He would make sure as far as he could that there would be no loss and would keep his price up.
[1217—1129]

Q. So that these percentages that you have named would rather be on the increased cost of the work rather than on the decreased value and cost of the work? A. No, sir, not of necessity.

Q. I am speaking, now, of the estimate of a con-

(Testimony of Edward S. Hough.)

scientious, capable engineer without bias, who is called upon to give an estimate on the value of work that he sees, but that is all. Would he not err rather on the side of the increased value of a large value for that work rather than a smaller value?

A. No, sir, for the reason, if an engineer is making an estimate for a machine-shop from which they expect to close a contract and cannot see all the work, his estimate would be large and safe—

Q. Exactly.

Mr. FRANK.—Wait a moment and let him finish.

A. (Continuing.) On the other hand, some man estimating the cost of a piece of completed work put in by a competitor it would be apt to work on the other side.

Mr. McCLANAHAN.—That is human nature.

A. To a large extent.

Q. And you would not impute to a reputable man any deliberate intention of doing that kind of thing. It is human nature to favor unconsciously one side where he is interested in that side rather than in the other.

A. There is a tendency with all of us to favor the man who pays us.

Q. Supposing you as an engineer were asked to estimate the value of work already performed on a ship, repair work, and in giving your estimate you were asked whether that figure you had given would be a figure that you yourself would be willing to do the work at. Under those circumstances would the price that [1218—1130] you would place be a safe

(Testimony of Edward S. Hough.)

one or an under price?

Mr. FRANK.—I want to offer the objection that it is not a question what Mr. Hough would do because he is not making an estimate here one way or the other, and he is not in a position to do this work; the work is already done and he is not in a position of doing such work, and none of the experts that you may call will probably be in a position to do this work or be bidding on the work to be done. The hypothesis involves a set of conditions that would be impossible in this case.

Mr. McCLANAHAN.—Read the question, Mr. Reporter. (The Reporter reads the question:) By “safe,” I mean conservative on the side of the shop.

A. Should give an estimate that I would consider fair without placing myself in the position of the contractor?

Q. Did you ever do any estimating for shops?

A. Yes, sir.

Q. Do you recognize that my question applies to that situation? A. Yes, sir.

Q. Now, under that situation would your figure be one that would be conservative and safe to the shop?

A. If I were estimating for the machine-shop I should estimate sure.

Q. So that they would not lose any money?

A. So that they would not lose any money.

Q. How long have you been engaged in the business in San Francisco of a marine surveyor and engineer? A. 21 years.

Q. You are pretty well acquainted then with the

(Testimony of Edward S. Hough.)

men in your line of business, are you not?

A. Yes, sir.

Q. How many are there in the city of reputable marine engineers [1219—1131] capable of giving an estimate on the repair work to ships?

A. I could not answer that question.

Q. Do you mean to say you do not know of any?

A. You ask me a very difficult question.

Q. Why?

A. You ask me how many reputable engineers are there.

Q. You do not know how many reputable engineers there are here?

A. I would not like to describe anybody as disreputable.

Q. I am not asking you to describe anybody as disreputable.

A. I do so if I answer your question. I must leave out some that are other than reputable.

Q. By the use of the word "reputable" I mean "capable"—men of capability.

A. I think all those practicing.

Q. All practicing here are capable of estimating on repair work to ships? A. Yes, I think so.

Q. Now, will you tell us who you have in mind?

A. The surveyors for the classifications.

Q. Please name them. A. There is Lloyd's.

Q. Name the men, please.

A. Do you wish engineers or hull men?

Q. Engineers.

A. Mr. Stewart of Lloyd's; I believe Mr. Evers of

(Testimony of Edward S. Hough.)

the "American Record," and there are others not attached to the Registers.

Q. Tell me who they are.

A. There is Mr. Tabrett, Mr. Gardner. There is Mr. Diericx. I think that is all with whom I come in contact.

Q. Do you know Mr. James Dickie?

A. I do; yes.

Q. Mr. George Dickie, I mean.

A. I know of him but I do not have business with Mr. George Dickie.

Q. So you do not know if he could be classed among the men who could do this estimating?

A. I would not leave him out, [1220—1132] but I did not think of Mr. George Dickie at the time.

Q. Do you wish to insert him now?

A. Yes, sir.

Q. What about Mr. Forsyth?

A. Mr. Forsyth is another one that I omitted.

Q. What about Mr. Creigler?

A. I am not acquainted with Mr. Creigler's ability in this respect.

Q. What about Mr. Heynemann?

A. I am not acquainted with his ability in this particular work.

Q. What about Mr. Humphreys?

A. I think he is attached to the service, is he not? He is not a practicing engineer.

Q. I do not care whether he is practicing or not, if he has the ability to estimate on repairs.

A. They are legion if that is the case.

(Testimony of Edward S. Hough.)

Q. They are legion in this city?

A. I suppose so, if you wish to include all the engineers capable of making an estimate.

Q. Mr. Humphreys is one, is he not, that can do the estimating? A. Yes, sir.

Q. You know what Humphreys we refer to?

A. Yes, sir.

Mr. FRANK.—I do not.

Mr. McCLANAHAN.—Q. What are his initials?

A. I don't know his initials, but it is Mr. Humphreys, formerly of the transport service.

Mr. FRANK.—I know him.

Mr. McCLANAHAN.—Q. Aside from these we have suggested to you there are a great number who are not in the business actually but who have the capability of doing estimating, are there not?

A. I should think so, Mr. McClanahan.

Mr. McCLANAHAN.—That is all. [1221—1133]

Redirect Examination.

Mr. FRANK.—Q. Now, Mr. Hough, coming back for a moment to the conversations that you had with representatives of the United Engineering Works, you said that when you came up here that I suggested that you had a stopper on you. Is this not the exact and entire conversation between us: you came here and I presented the bill to you, and asked you if those prices were right? A. Yes, sir.

Q. And you said you could not answer me?

A. Something to that effect, yes.

Q. And I asked you why, and you said, "I am retained by the other side.

(Testimony of Edward S. Hough.)

A. Well, I may have said so, Mr. Frank. I do not deny it.

Q. And I asked you then what the extent of your retainer was, did I not?

A. You may have asked me that.

Q. And you said to me, "To keep my hands off of the case, and not to act for either side." Is that not it? A. To be neutral.

Q. Was that not the conversation?

A. I think I used the words "hands off"; I think I did.

Q. Hands off? A. I think I did.

Q. Then I asked you what you meant by "hands off" and you said "not to act for either side"?

A. I do not think I said that. I think I said neutrality.

Q. That was the entire conversation, was it not?

A. Yes, sir.

Q. I did not suggest that there was a stopper on you? A. No, sir, but you called it a stopper.

Q. After you told me? A. That may be.

Q. Not at first?

A. I do not think you did first. I do not think I have so implied. I did not intend to. [1222—1134]

Q. That was the understanding of counsel when he examined you, from the trend of his questions. Now, when Mr. Eva came down to see you, did he ask you for an estimate on the job?

A. He asked me if I could make him some estimate.

Q. That is what he asked you? A. Yes, sir.

(Testimony of Edward S. Hough.)

Q. Did he not particularly ask you about the prices charged, and the nature of the charges with respect to labor? A. That was subsequently.

Q. The first time he asked you about the estimates? A. Yes, sir.

Q. That must have been a long time ago, was it not? A. No, sir.

Q. Did you have only two conversations with him?

A. Only one in the office.

Q. Only one? A. Yes, sir.

Q. And that was all the conversation between you? A. No, sir.

Q. What was the rest of it?

A. As I have stated here.

Q. I do not recall it now. I had my mind fixed on this question of estimates.

A. He referred to the necessity of sending for me.

Q. Did he ask you about the prices charged?

A. No, sir, he did not ask me about the prices charged.

Q. Did he ask you about the condition of the labor charges?

A. He saw me subsequently, I think, but I am not sure if it was in the office, and he asked me if I recollected the labor conditions existing at some specified time. I forget now just when it was. I reviewed it in my mind and I think I suggested to him the period over which the labor troubles had existed from the time of the 10 hours to the present 8 hours. [1223—1135]

Q. Now, turning from that for a moment back to

(Testimony of Edward S. Hough.)

the legion of competent engineers to make estimates on ship work, Mr. Hough. From your knowledge of these men, how many of them, if you have work to do, would you employ for estimates upon ship repairs?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Not the whole.

Mr. FRANK.—Q. Not the whole of the legion, would you? A. No, sir.

Q. You would not employ Mr. Humphreys, for instance?

A. I have never had any occasion which would cause me to have a poor opinion of his ability.

Q. You have never known any occasion where he has made any estimates where you could in any wise determine his ability, have you?

A. No, sir, I have not been associated with any work with which he has been connected?

Q. And he has not been associated with any commercial work in this port?

A. My only knowledge of Mr. Humphreys was when he was connected with the transport service.

Q. And that was long after the war, for a short time he was down on the transport dock; is that right?

A. That was subsequent to the war, and on the transport dock.

Q. Mr. Creigler, you had no connection with, so as to know whether or not he is a man whom you would employ in such work, would you?

(Testimony of Edward S. Hough.)

A. I have had considerable business with Mr. Creigler at the Fulton Iron Works.

Q. At the Fulton? A. Yes, sir.

Q. Well?

A. He was outside superintendent for the works, and we did a great deal of work on small vessels at that establishment.

Q. But not on which he had been figuring?
[1224—1136]

A. I don't know who did the figuring.

Q. He was kind of outside superintendent on small vessels there?

A. My connection with him was in that respect.

Q. By the way, the Fulton failed, did it not?

A. The Fulton went out of business.

Q. It failed, did it not? A. I do not know.

Q. Can you recall anyone else save these gentlemen who are connected with the Records, that you have mentioned, and Mr. Tabrett, Mr. Gardner, Mr. George Dickie, and Mr. Forsyth, who would be in any real sense available for that purpose?

A. When I used that word "legion" I had in mind the fact that a good many steam schooner owners will call on their chief engineer of the vessel to make them an estimate of anticipated repairs, and they will act on his suggestion as to values, so I suppose they would be "legion."

Q. Whether this selection is wise or unwise, you are not able to state?

A. I know nothing of it.

Q. Any man can make a guess?

(Testimony of Edward S. Hough.)

A. Some make guesses and some make estimated guesses.

Q. And the educated guess is a guess just the same? A. Yes, sir, only in a different degree.

Q. You were asked if this educated guess of an engineer who is told what work is being done, and so forth, is not the most accurate and only means of an owner determining the value of the work after it is done. Now, I will ask you whether or not the most accurate means is that of the estimate of the engineer or timekeeper who is put on the job and sees every detail of it, as it progresses.

Mr. McCLANAHAN.—I object to that upon the ground that the witness has shown no familiarity with the degree of competency of the supposed engineer and timekeeper, and that that necessarily [1225—1137] would have to be known to the witness before he could answer the question.

Mr. FRANK.—Q. Answer the question, Mr. Hough, in its present form.

A. I realize that if an engineer orders the work day by day and checks the time day by day, he is in a better situation to judge of what is actually done than the man who is not there all the time.

Q. And in a better situation to give the true value of the work that was done, is he not?

A. He can certify to time worked and material employed, but it does not follow that he knows the value of material.

Q. If he is a competent man, a first-class engineer in his business, he would know it?

(Testimony of Edward S. Hough.)

A. If he is the same class of man that you gentlemen have referred to as competent to pass on the value of work and is given all the advantages of checking it, yes.

Q. That would be an accurate determination of the value better than anything else that can be conceived, is it not? A. Of necessity it would be the closest.

Q. Do you know Mr. Putzar? A. I do.

Q. You know he was superintendent of the Ocean Steamship Company's steamers? A. Yes, sir.

Q. You consider him a competent man, do you not?

A. I have no occasion to judge of him.

Q. What is his reputation, if you know it at all?

Mr. McCLANAHAN.—I object to that as immaterial. Mr. Putzar is not in this case so far as I know it. We should be glad to have him called now. We cannot get hold of him.

Mr. FRANK.—Yes you can. Do not say that.
[1226—1138]

Mr. McCLANAHAN.—We have tried to, and Mr. Putzar has declined to see us.

Mr. FRANK.—You can make that statement if you please. You have got Mr. Putzar, and you have had every detail from him in this business. You can get him any time you want him.

Mr. McCLANAHAN.—Not only do I make the statement, but I will prove it.

Mr. FRANK.—Very well. We will see whether you will or not. You not only can get him, but you have got control of him so that no one else can get him.

(Testimony of Edward S. Hough.)

Mr. McCLANAHAN.—We deny that most emphatically.

Mr. FRANK.—Q. Now, just answer the question, Mr. Witness.

A. Mr. Putzar is a competent marine engineer.

Q. By the way, you have included Mr. Diericx in this list as a competent engineer. Not wishing in any wise to attempt to discredit Mr. Diericx' claim to that—

Mr. McCLANAHAN.—Do not restrain yourself.

Mr. FRANK.—Thank you.

Q. —I just wish to ask you on what ground you place him in that class.

A. When I was asked that question I was asked for the names of men who were competent to make these estimates.

Q. Mr. Diericx has already in this case disavowed that competency, and says he is not an engineer but a marine architect.

A. I know him to be a naval architect. I believe Mr. Diericx capable of making estimates on engine work.

Q. You have taken part, Mr. Hough, in competitive bidding for repair work, have you not?

A. Yes, sir.

Q. And making estimates? A. Yes, sir.

Q. And the estimates that have come in on any particular work vary very largely, do they not, one from the other?

A. They are very apt to at times. [1227—1139]

Q. They do, generally?

(Testimony of Edward S. Hough.)

A. Not generally; sometimes.

Q. In a large piece of work they do a good deal, do they not? A. According to conditions.

Q. We will assume that a vessel is in a very bad condition internally, and of course she is not taken apart when the estimates are made.

Mr. McCLANAHAN.—I object to the assumption.

A. Yes, sir.

Mr. FRANK.—Q. Under those conditions estimates vary very largely, do they not?

A. They would be wild.

Q. Necessarily so, because the conditions cannot be known to the people? A. Yes, sir.

Q. I suppose you have known of many cases, have you not, in which on such estimates the shop has made very large losses, have you not?

Mr. McCLANAHAN. I object to that as immaterial.

A. I have heard them state that they have made losses.

Mr. McCLANAHAN.—I ask that the answer be stricken out as hearsay.

Mr. FRANK.—Q. Well, from your knowledge of what the work actually cost in cases where you have overseen the work, you have known that they must have made very large losses, have you not?

A. I have seen cases where I think the shop has not come out even.

Q. That is a very conservative way of putting it, Mr. Hough. If they have not come out even have

(Testimony of Edward S. Hough.)

they not fallen many times very far below coming out even?

Mr. McCLANAHAN.—I object to that as immaterial, and further, on the ground that the witness has not shown any [1228—1140] knowledge of the shop having lost money on their estimate or contract for work? A. They have made losses at times.

Mr. FRANK.—Q. And that is because of the inability to make anything like a true estimate until the work is taken apart; is that not right?

Mr. McCLANAHAN.—Objected to as leading and suggestive.

A. Not always.

Mr. FRANK.—Q. Well, sometimes?

A. There are two reasons—two prominent reasons why a shop will sometimes make a loss. One is by underestimating the actual cost, and the other is underestimating the time necessary to complete the work, and laying themselves open to a penalty.

Q. Now, in a case where the work has been previously laid out say on specifications, and when they come to open up the vessel, they find that the specifications, in the first place, do not fit the conditions, and have to be changed to meet the conditions as they appear as the vessel is opened up? A. Yes, sir.

Q. And also where other and new work appears which never was contemplated. What effect would that have on estimates?

Mr. McCLANAHAN.—I object to the question as unintelligible.

(Testimony of Edward S. Hough.)

Mr. FRANK.—Perhaps it is to you, but not to the witness.

Mr. McCLANAHAN.—I know what you are driving at, but you are shy of putting it in an intelligent way.

A. It is usual in writing a specification, to provide against surprises.

Mr. FRANK.—That is not the question. I have given you a specific case. Take the case as given to you.

Mr. McCLANAHAN.—I object to the question upon the ground that the statement is not specific as applicable to the facts [1229—1141] shown in this case.

A. If those conditions arise during the progress of work then it is proper to reconsider the contract.

Mr. FRANK.—Q. That is a very proper answer but still give me an answer to the particular question that I have asked you. Just read the question to the witness, Mr. Reporter. (The Reporter reads the question.) Perhaps you have arrived at the same result in a different way.

A. The estimate would then be low.

Q. Well, after the work had been done, and we will assume that it is overtime work also, and that time is lost in ordering or making these changes, could anybody who was not present and saw those conditions make anything like a fair estimate of what the work did cost, even though they saw the work then completed?

(Testimony of Edward S. Hough.)

A. Wherever overtime has been worked it will be confusing.

Q. No estimate can be made with reference to it. Is that right? A. There will be confusion.

Q. By "confusion" you mean that the estimate cannot be made accurately, is that it, or with any degree of accuracy? A. It may be inaccurate.

Q. You are very conservative, Mr. Hough.

Mr. McCLANAHAN.—What do you want him to be, Mr. Frank—radical?

Mr. FRANK.—Q. Is it not sure to be inaccurate? Can you make any estimate?

A. No, sir. As I stated before, a man may sometimes make an accurate guess.

Q. How can he estimate with reference to time lost when the changes were being effected?

A. He could only by having that explained to him make a liberal allowance for it.

Q. In other words, he must make a guess on that proposition [1230—1142] pure and simple; is that right? A. To a large extent.

Q. Mr. Hough, you were asked concerning the effect of your kindly feelings towards the United Engineering Works upon your refusal to make an estimate for the Matson Navigation Company. Now, do I understand you that had anything to do with that refusal at all. Is it not a fact that your sole reason for not making an estimate for them was the fact that you did not feel that under the conditions, such an estimate could fairly be made?

Mr. McCLANAHAN.—I object to that as not

(Testimony of Edward S. Hough.)

proper redirect examination and a direct contradiction of what the witness said on both direct and cross-examination.

Mr. FRANK.—Q. Answer the question.

A. I was prompted largely, in the first place, by my friendship for the United Engineering Works to keep me away from the whole thing.

Q. That is not answering my question. When he came to you and asked you to make an estimate for them and offered to retain you, was not your refusal based entirely on the fact that you did not think you could make a fair estimate under the conditions?

Mr. McCLANAHAN.—The same objection.

A. No, sir, I stated positively to Mr. Eva that I could not serve him.

Mr. FRANK.—Q. I am talking of Mr. Diericx, not Mr. Eva.

A. I thought you meant the United Engineering Works.

Q. No. Is that not the fact?

A. I do not know, Mr. Frank, whether there was more of one element than the other.

Q. Is this not a matter of business with you, Mr. Hough? [1231—1143] A. I try to make it so.

Q. And it is not a matter of sentiment?

A. It is a matter of business.

Q. And if you thought you could have made a fair estimate on this subject, would you not have made it for the Matson Navigation Company when they applied to you, irrespective of who the other party was?

(Testimony of Edward S. Hough.)

Mr. McCLANAHAN.—I object to that as not proper redirect examination.

A. I cannot recall what I felt at the time, and I cannot reply.

Mr. FRANK.—Q. You cannot recall what you felt at the time? A. No, sir.

Q. And if you felt that kindly feeling towards the United Engineering Works, why did you take a retainer from the other side?

A. As I said before, neutrality. That is my word.

Q. Why could you not preserve the neutrality without the retainer?

A. You have pointed out it is a matter of business with me and was.

Q. And you have received that retainer so as to preserve the neutrality; is that right?

A. As I understand the word “neutrality” and as I understood Mr. Diericx at the time.

Q. And that is all there was to it?

A. Nothing more has developed.

Q. And if you thought you could have made a fair estimate for them, you would have done it for a fair compensation, would you not?

A. I cannot answer that question.

Q. Why cannot you answer the question?

A. Because I cannot recall all the feelings that prevailed at the time, business or otherwise. [1232—1144]

Q. At any rate, you told them you would not do because you knew you could not make a fair estimate?

Mr. McCLANAHAN.—I object to that as im-

(Testimony of Edward S. Hough.)

proper redirect examination.

A. I may have expressed myself in this way at the time, that it is difficult for anybody to make a correct estimate on repair work which he has not seen in progress.

Q. Did you not say more than difficult? Did you not say it is impossible?

A. I may have used the word "impossible."

Q. And that was a correct expression of your opinion on the subject?

A. If I used the word "impossible" I intended it to be correct.

Q. And you are still of that same opinion?

A. My mind has not changed on that subject.

Recross-examination.

Mr. McCLANAHAN.—Q. Your mind with regard to this conversation with Mr. Diericx is not very clear just now, is it, as to the details of it?

A. Perhaps not.

Q. Don't you remember that Mr. Diericx, when asking you to serve him, received from you this reply, that you did not care to be mixed up on either side, you representing the Bureau Veritas, did business with both parties and preferred not to be mixed up on either side?

A. Yes, sir, something to that effect.

Q. Something to that effect? A. Yes, sir.

Q. And did not Mr. Diericx at that time leave you and come back subsequently and offer you a retainer?

A. Yes, sir.

(Testimony of Edward S. Hough.)

Q. Are you clear that at this first talk with Mr. Diericx you said anything about the impossibility of estimating on the "Hilonian" work? [1233—1145]

A. I am not clear whether it was at the first or second interview.

Further Redirect Examination.

Mr. FRANK.—Q. But you are clear that it was at the interview when he finally offered you a retainer?

A. Either one or the other; I am not certain when.

Q. And the retainer was offered you after the expression of that opinion?

A. The retainer was offered to me at the second interview.

Q. After you had given an expression of that opinion?

A. I do not know whether that expression was at the first or second interview.

Q. We will assume that it was at the second interview if that would be the stronger against us, but it was after you had told him this that he gave you the retainer to keep your hands off?

A. I cannot state positively with respect to that.

Q. He was seeking an estimate from you before that, was he not, before you had given an expression to that opinion, was he not?

A. I think that is what he asked me, when he came into the office.

Q. And he had not offered you any retainer when he first came to the office?

A. I will not be sure, Mr. Frank.

(Testimony of Edward S. Hough.)

Q. I think we can leave it where it is, safely.

Mr. McCLANAHAN.—We are satisfied.

(A recess was here taken until 2 P. M.) [1234—
1146]

AFTERNOON SESSION.

[Testimony of R. H. Roberts, for Libelant
(Recalled).]

R. H. ROBERTS, recalled.

Mr. McCLANAHAN.—I will agree not to make any point in this case as to the verity of the weights found on these different stock cards if by so doing I can shorten the record and obviate the necessity of calling other witnesses to prove the weights are correct, the stock cards referred to being as follows: C3997, C3966, C3965, C3942, C3921, C3916, C3908, A1900, A1711, A1755, A1769, A1813, A1839, A1840, A1841, A1856, A1886, C2767, C2753, C2738, C2735, C2725, C2720, C2719, C2706, A1499, A9, A12, A28, A31, A34, A41, A45, A63, A94, A1027, A1098, A1115, A1146, A1175, A1194, A1212, A1217, A1229, A1231, A1233, A1236, A1247, A1248, A1253, A1269, A1296, A1300, A10, A32, A48, A74, A81, A92, A97, A1104, A1125, A1157, A1154, A1184, A1192, A1197, A1258, A1298, B7702, C6818, C6822, A6037, A6055, A6058, A6070, A6094, A6095, A6181, A6303, A6304, A6305, A6313, A6314, A6319, A6321, A6323, A6327, A6329, A6334, A6335, A6340, A6344, A6347, A6354, A6356, A2505, A2511, A2512, A2515, A2519, A2529, A2533, A2541, A2546, A2550, A2562, A2564, A2572, A2577, A2579, A2580, A2587, A2588, A2589, A2597, A2598,

(Testimony of R. H. Roberts.)

H5808, H5816, H5819, H5825, H5827, H5828, H5829, H5832, H5836, H5838, H5842, H5846, H5848, H5849, H5852, H5853, [1235—1147] H5856, H5860, H5863, H5874, H5879, H5880, H5881, C521, C533, C577, C582, C592, A937, A945, B1004, B1005, B1014, B1025, B1033, B1041, B1049, B1057, B1061, B1062, B1075, B1076, B1079, B1081, B1090, B1092, B1096, B1097, C1118, C1127, C1147, C1142, C1152, C1163, C1175, C1199, B1516, B1522, B1546, B1550, B1560, B1578, B1582, B1584, B1814, B1828, B1839, B1854, B1867, B1871, B1884, B1897, B9552, B3646, B3654, B3661, B3664, B3667, B5655, B5657, B5691, B5688, B5670, B5683, B5684, B5679, B5672, B5664, B5665, B5695, A923, A944, B3611, B5660, B5689.

Mr. FRANK.—Now, I have a stock card here, D9067, dated September 12th, 1909, charged to job 5295 “lignum vitae in stern bearing, filling ‘Hilonian,’ 200 pounds, F. D. foreman,” and I desire to prove that that is a correct entry made at the time by Mr. Dolan, of the amount of lignum vitae put in the stern bearing of that vessel.

Mr. McCLANAHAN.—I will admit that if Mr. Dolan was recalled as a witness that he would testify that he made out the card, weighed the material and furnished it to the ship.

Mr. FRANK.—I ask that the card be marked Dolan Exhibit “Q.”

Mr. McCLANAHAN.—I make that admission subject to my usual objection that it is incompetent, irrelevant and immaterial, hearsay, self-serving and

(Testimony of R. H. Roberts.)

not binding on the respondent.

(The card is marked Dolan Exhibit "Q.")

Mr. FRANK.—We also offer the cards of Mr. Dave Doig, on which he was examined and ask that they be marked Dave Doig Exhibit No. 1. [1236—1148]

Mr. McCLANAHAN.—I object to the offer of the cards on the ground that they are incompetent, irrelevant and immaterial, hearsay, self-serving and not binding on the respondent, and ask that my objection apply to each card and every card introduced in the exhibit.

(The cards are marked "Dave Doig Exhibit No. 1.")

An adjournment was here taken until Monday. [1237—1149]

Monday, October 16th, 1911.

(Proceeding before Judge J. J. DE HAVEN in regard to the time for closing the testimony.)

Mr. McCLANAHAN.—If your Honor please, nearly four months ago, on the petition of the respondent, your Honor made an order requiring the libelant in this case under the reference to have its testimony in by the 15th of August, the respondent to have its in by the 25th of August, and the libelant then to have five, or six days to be exact, within which to offer rebuttal. There was some delay occasioned by the request of the respondent in the inception of taking the evidence for the libelant. We asked for a few days' time, being engaged

in the trial of the "Selja" case, and agreed to allow the respondent four or five days of our time, running their time beyond the 15th. But notwithstanding that they commenced to take evidence on the 15th of August, and continued taking evidence in the case before the Commissioner during the whole of some days, and parts of others, with fair regularity up to the 21st of September. Since that time they have used but three days in taking the evidence of witnesses. The record is full of our protests at this delay, and counsel's excuse has been that he could not get his witnesses. It has been very annoying to us, and we are forced at this time to call the Court's attention to this matter by the way of a motion to dismiss the action for failure to prosecute under your Honor's former order, and in the event of that being denied we have filed an alternative motion asking that your Honor fix a new limit of time within which the libelant shall put on its [1238—1150] case, restricting the respondent to 10 days for putting on its case and the libelant to 5 days to put on the rebuttal, if any. We do this with a great deal of hesitancy. Our time is valuable and our office is practically tied up with this case and our clients are suffering. We are at expense holding two witnesses here; the engineer of the "Hilonian" the steamer in controversy we have held here two trips at great expense as a witness. The counsel has suggested to us that we can take his evidence, but his evidence depends on the evidence of the libelant and we have got to wait until the libel-

ant's case is in. In order to give the Court a fair idea of the record, I have prepared here a list of the hearings we have had showing how irregular they have become towards the end. This is taken from the record (handing a paper to the Court).

The COURT.—I am not disposed to dismiss the proceeding for want of prosecution, but I am disposed to make an order requiring the testimony to be submitted.

Mr. FRANK.—Will your Honor hear me just a moment. I am willing there shall be a limitation on it, but I am not willing that the representations made here shall pass unchallenged as to the manner in which the testimony is being put in. This testimony was being put in regularly and diligently up to the end of September. Every justifiable day was used. I am just as much put out as the respondent is. The necessity of so much testimony is due to the nature of the defense, putting us to the strictest proof of every little detail, and it is very difficult, indeed. I had a case set in Los Angeles for trial on the 2d day of October, for which I had to prepare, and to go to Los [1239—1151] Angeles, and so advised counsel. He consented to the cessation for that purpose. On Sunday, the 1st of October, when I was about to proceed and use my time for the purpose of preparing my case down there, I received a telegram that the case was crowded over. Immediately on the arrival of the day to which we adjourned we started in again, which was October 5th. This last week has been largely a week of holidays, and there

has only been one or two days lost. That was by reason of the fact that we could not get witnesses, and under circumstances that will be made very plain to your Honor when you come to go over the record. We were prepared to go on this morning and so notified Mr. McClanahan, but we were drawn out here. So far as the limitation is concerned I have no objection to that. We are doing everything we can, giving all our time to the putting in of this case as quickly as it can be put in. I do not wish the suggestion to be made or the impression to go out that I have not been as diligent as the circumstances of the case will permit.

The COURT.—What time is suggested in regard to the closing of this case?

Mr. McCLANAHAN.—The case has continued for 29 or 30 days of actual hearing. I am not responsible for the way in which Mr. Frank is putting in his case. I do not agree with him in the method he is pursuing, and he knows it, but it seems to me that another week should suffice for all purposes, and that five days in rebuttal should suffice for all purposes. We are willing to put on our case and defense in 10 days.

Mr. FRANK.—I have this suggestion to make: I think the [1240—1152] time for the direct testimony is sufficient, but I do not think five days in rebuttal will be sufficient because of the nature of the testimony that we understand is to be put on by the respondent. It will make it very difficult for us to meet it in five days. With that suggestion at this

time, I will take such limitation as your Honor may suggest in regard to it, and I have no doubt, under proper representations, if we are unable to put our testimony in by diligent effort on rebuttal in the time mentioned, your Honor will take that into consideration.

Mr. McCLANAHAN.—Five days was the original rebuttal limit, and counsel knew just as much about our defense then as he does now.

The COURT.—I cannot conceive why it takes so long to put in testimony in an ordinary action like this. It seems to me that 10 days to close this case now, 10 days for the defense and 5 days for rebuttal, is sufficient. I cannot conceive why it is not sufficient.

Mr. FRANK.—The cross-examination takes up as much time as the direct; the record is quite as full of one as the other. We are not entirely responsible for that.

The COURT.—I do not know. Let the order be made in that way, 10, 10 and 5.

Mr. FRANK.—Very well. [1241—1153]

Monday, October 16th, 1911.

(At 2 P. M. the taking of testimony was resumed at the office of Nathan H. Frank, Esq.)

**[Testimony of James Chandler, for Libelant
(Recalled).]**

JAMES CHANDLER, recalled for the libelant:

Mr. FRANK.—Q. Mr. Chandler, I will show you two cards, dated September 5th and September 6th, with your name on, and ask you if those are time-

(Testimony of James Chandler.)

cards made out by you for work performed on those dates, and if they are correct.

A. They are both in my handwriting.

Q. Both in your handwriting? A. Yes, sir.

Mr. McCLANAHAN.—Is this something new?

Mr. FRANK.—While it is not new, it is a part of an exhibit already in, “Adamson No. 52.”

Mr. McCLANAHAN.—Cards that he failed to identify?

Mr. FRANK.—Yes, that is all.

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Chandler, who gave you the job numbers appearing on these cards?

A. The foreman.

Q. What was his name?

A. Mr. Adamson. They are marked on the work generally.

Q. Generally, but I am speaking specially of these cards? A. The foreman.

Q. On the card of September 5th, 1909, the job number is 5295, and the article worked on is “Crank brasses”? A. Bearings.

Q. Those are the main journals?

A. No, sir, the crank bearings. It is for the crank that the main-shaft is on; the crank [1242—1154] bearings for the main-shaft.

Q. Are they not the main bearings of the crank-shaft?

A. No, sir, what we call the main bearings. It is on the same shaft, but it is for the crank.

(Testimony of James Chandler.)

Q. Does this card mean the crank-pin brasses (pointing)?

A. Yes, sir, crank-pin brasses. That is what it means.

Q. Now, let us get this clear. I understand that this card here of September 5th, 1909, reading "Crank brasses" as the article worked on, should read "Crank-pin brasses"? A. Yes, sir.

Q. That is right, is it? A. Yes, sir.

Q. I show you the card of September 6th, the next day, where under 5325 you worked on crank-pin brasses. Can you explain why the numbers are different? A. No, sir, I cannot.

Q. On September 5th. It is the same work, is it not?

A. I have forgotten now, but there are two different numbers.

Q. Is it not the same work?

A. Crank-pin brasses. I might have forgotten to put in the "pin" here. It is crank brasses, though.

Q. You have identified this September 5th card as being work done on the crank pin brasses?

A. Yes, sir.

Q. I show you the card of September 6th, where work is shown on crank-pin brasses. That is the same work, is it not?

Mr. FRANK.—The same work in what respect?

Mr. McCLANAHAN.—Q. The same article worked on, is it not? A. I should judge so.

Q. You cannot explain why they have separate numbers?

(Testimony of James Chandler.)

A. It is too long ago for me to remember that now, sir. No, I cannot explain that now. [1243—1155]

Q. Well, it is out of your line, is it not, to make an explanation of why the numbers are as they are? You do not know anything about the numbers, do you?

A. The numbers are written on the box or bearing, generally, or my work as it is given to me.

Q. That could not have been this case, could it, unless the piece had two numbers on it?

A. Unless it got mixed up in some way, which they do sometimes.

Q. Do you know where the foreman gets the numbers from that he places on the work?

A. Well, I suppose from the office.

Q. From the office? A. I think so.

Q. Who in the office has charge of that work?

A. I do not know.

Q. This work shown by these cards here is friction metal work, is it not?

A. Anti-friction metal work.

Q. That is Challenge metal? A. Yes, sir.

Q. You have already testified in this case, have you not? A. I have, six weeks ago.

Q. Do you recollect testifying that you used about a ton and a quarter of Challenge metal on this "Hilonian" job?

A. In the neighborhood of that. I do not remember what it was exactly, but it was in that neighborhood, as it was the biggest job I ever done. That is the reason that I remember it. Ordinarily, I would

(Testimony of James Chandler.)

not remember a month.

Q. Have you ever seen the bill rendered in this case?

A. No, sir, or in any cases as far as I am concerned.

Q. If I should tell you that there has been billed specially in this case only 608 lbs. of Challenge metal, can you tell me why that is so? [1244—1156]

A. No, sir, I cannot.

Q. You are sure that you used over a ton?

A. It is in the neighborhood of a ton and a quarter, as I remember it, on all the work on the "Hilonian."

Q. Most of that went into the main bearings?

A. Yes, sir.

Q. And the spring bearings?

A. The main bearings and spring bearings, yes, the biggest portion of it.

Redirect Examination.

Mr. FRANK.—Q. Mr. Chandler, at the time that these cards were handed in, you knew them to be correct then, did you not, whatever your memory may be on the subject now—is that so?

Mr. McCLANAHAN.—I object to the question as improper redirect examination.

A. Yes, sir, they always come to me if I make a mistake, as I remember it. I have been reprimanded several times for making those mistakes.

Mr. FRANK.—Q. On September 6th there is a change in red ink, making it 5325. A. Yes, sir.

Q. And how is that done?

(Testimony of James Chandler.)

A. They come to the office and take me up in the shop.

Q. And go over the matter with you?

A. Yes, sir. I make mistakes sometimes.

Q. Between you you determine that is the right number, and it is changed; is that right?

A. Yes, sir, they always come out after me.

(An adjournment is here taken until to-morrow, Tuesday, October 17, 1911, at 9:30 A. M.) [1245—1157]

Tuesday, October 17th, 1911.

(An adjournment is taken until to-morrow, Wednesday, October 18th, 1911, at 9:30 A. M.) [1246—1158]

Wednesday, October 18th, 1911.

[Testimony of Richard W. Curtis, for Libelant.]

RICHARD W. CURTIS, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Curtis, what is your business?

A. I am employed by the United Engineering Works as chief clerk.

Q. What are your duties in that capacity, Mr. Curtis?

A. In the capacity of chief clerk it is my duty to make all the charges and take care of the entire office force. I mean by the "office force" all the time-keepers and all of the clerical force both on this side of the bay and on the other side. I issue instructions to them as to what orders to carry out in every case.

(Testimony of Richard W. Curtis.)

Q. You oversee the work of all these parties?

A. My duties are, I have charge or take charge of the time-keeping department, also of all the departments in the yard in so far as I keep in constant touch with every department regarding all the work that is going on in the yard, especially pertaining to the charges for material going on in these different classes of work. It is my duty to go over there every day and come in contact with the different foremen of the different departments in order to keep in touch with this work that is going on, no matter what job it is.

Q. You said materials. I suppose the labor also is included? A. Labor also.

Q. In the case of "Hilonian" job did you perform that work?

A. In the case of the "Hilonian" job, like any other job, I was notified that the "Hilonian" was going over to the yard to have repairs made on her, and that they would have a timekeeper on that job. I went over to the yard at the time that [1247—1159] the "Hilonian" arrived and carried the work out in the same manner that any other job was being carried out, that is, that I looked after all the material and labor, and kept in constant contact with the foremen of the different departments regarding this work.

Q. Now, with respect to the time-cards upon the work as it progressed, what connection did you have with them?

A. The time-cards, after being checked up, were

(Testimony of Richard W. Curtis.)

turned over to me each day and I would look all the time-cards over, and I would take these cards over to the yard and upon any of them that I might find anything that was in doubt, or to my mind not satisfactory, I would call in the men and the foreman connected with that department, and question them regarding these cards and also the stock cards. I would then and there straighten out whatever difficulties might arise. Also regarding the timekeeper on the various ships, and also I might mention the "Hilonian." It was my duty to keep in constant contact with these timekeepers, and to check up with them daily as to the work performed on their ships, and correct any and all errors that might occur; in other words, make a daily adjustment with the timekeeper as to the labor performed on the ship.

Q. In the case of the "Hilonian," did you do that with Mr. Putzar, the timekeeper?

A. Mr. Putzar was the timekeeper on the "Hilonian," and that being part of my duties I checked up with him daily.

Q. With reference to the lists of work and matters of that sort what connection did you have with them?

A. The lists of work: when the ships arrive at the yard certain [1248—1160] lists were made out in all cases for work to be performed on the ships, and I would set the job-numbers, that is, instruct the clerk to set the job-numbers on these lists after reading them over.

Q. Whom do you mean by the clerk?

A. I mean Mr. Sjoberg.

(Testimony of Richard W. Curtis.)

Q. He is the man that some of these men call the timekeeper?

A. Yes, sir. Copies of this list would be sent to all departments, to the foremen's office or desk, or whatever it might be.

Q. And did you keep a copy yourself?

A. I kept a copy of it myself.

Q. After the work is finished on any job, what was the method, or is the method, of incorporating those lists, or the work performed on those lists in a statement or account for the use of the office?

A. After the jobs are finished it is my duty to take up the reports of each foreman; that is, I mean by the report, this list that was issued from the office that was given to the foremen to keep track of the work. I take these reports and after checking them up with the foremen consolidate that into a heading for the charge or the bill, and then they being of no further use to us we destroy them, because if we kept them all it would take a great deal of room, and secondly, as a general rule, they are very dirty and oily.

Q. This heading, is that the heading that appears at the head of the bill as seen on "Exhibit No. 1" and the other exhibits attached to the complaint in this case (handing)?

A. These headings are the result of the consolidation of the reports of the work furnished by the different foremen of the different departments of our yard.

Q. What office do they perform as a record in the

(Testimony of Richard W. Curtis.)

office of the United Engineering Works? [1249—1161]

A. They are the original record. It is the only record that we keep.

Q. Now, with reference to the time-cards and the material cards; what is done with them?

A. The time-cards and the material cards are turned in every day, and after they are all in they are, after being checked up daily by the different foremen, turned over to me, and I also go through them. In going through these cards I refer to the lists of the different foremen, and if I see anything that is wrong with the card, or that I think might be cloudy in any way, I refer to the foreman or the man on the job. After that is done, if there is a time-keeper on the job he gets these cards to check up.

Q. That is the ship cards you are speaking of?

A. I am speaking of the ship cards, yes.

Q. After he has checked them up what becomes of them?

A. After he has checked them up, and we arrive at a satisfactory settlement for the day's work, and the cards are duly checked, these cards are not kept.

Q. You speak of the timekeeper checking them up. State whether or not in this case Mr. Putzar kept an independent record of the time.

A. Mr. Putzar, to my knowledge, kept a handbook, as all timekeepers do. What I mean by handbook is, they keep track of the men independently of our record. Then the cards were demanded each day by Mr. Putzar, and he checked them up with his hand-

(Testimony of Richard W. Curtis.)

book. I know this to be a fact, because I made it my business to ask Mr. Putzar each day if the cards were satisfactory, but in this case Mr. Putzar transcribed them onto the sheets and he checked them up on these sheets from his handbook. The time-cards were then turned over to me with these sheets, and I checked the time-cards with the sheets. [1250—1162]

Q. What did Mr. Putzar do in the way of certifying to the correctness of the sheets?

A. Mr. Putzar had a form-book and had a carbon sheet, and Mr. Putzar transcribed these cards on to the sheet. He would then sign the original, and turn it over to me after being satisfactory both to himself and to me as to its correctness.

Q. Now, with respect to the shop cards, what course would they go through?

A. The shop cards, after being duly checked up by the foremen of the different departments, were turned in to the office. I would go over the shop cards with the timekeeper in the office. What I mean by going over them is this: I would take these cards and look over the lists of work and over the individual cards of the men, and check them up. If I saw anything that was wrong in any way or doubtful I would call these men in. These cards were finally turned over to me then after due checking, and I segregated them and consolidated them in the charge that was rendered to the different ships, and to the charges rendered to the "Hilonian" in this case.

Q. What would finally become of those cards in case there was no dispute concerning them?

(Testimony of Richard W. Curtis.)

A. If there was no dispute, and we did not hear anything regarding the bill but what was satisfactory, we did not keep these cards because the accumulation was so great that we could not handle them, and they would be destroyed.

Q. How does it happen, then, that you have in your possession the cards relating to this particular job?

A. The cards in all cases are kept for a certain period. After that, if we do not hear any objection we destroy them, but if we hear that the parties concerned have any doubt as to any of the charges on the bill we keep the card pertaining to that [1251—1163] item or to that class of work.

Q. The particular cards that have been offered in evidence in this case, who segregated them?

A. The cards that were offered in evidence in this case I segregated myself personally.

Q. And in whose possession were they up to the time of their being brought here?

A. They were in my possession.

Q. Is that the usual, ordinary and customary course of keeping accounts of the United Engineering Works?

A. Yes, sir; these cards, and the timekeeper, and this manner I have explained is the usual and customary course of keeping accounts of the United Engineering Works.

Q. And the material tags? A. Yes, sir.

Q. Now, these cards, some of them, show on the face of them changes made in them. Why are those changes made in the manner in which they are made

(Testimony of Richard W. Curtis.)

instead of the changes being made by means of erasers?

A. The reason for that is, it has always been my instruction to every man that handles cards or stock order cards in the shop, that any changes that were made should be made so as to show on the cards, and not to erase any man's handwriting, or any marks that might be on that card.

Q. What, if any, supervision did you have with respect to the job numbers?

A. The list of work that is to be performed on a vessel is always handed to me, and I, as a general rule, read that work over, then instruct the timekeeper to place an order in for that work, giving that work or that particular vessel a number on which all work is to be performed covering that list.

Q. How are these numbers fixed to that list, whether in handwriting or by means of a serial number stamp? [1252—1164]

A. The job numbers are fixed on the list with a serial number stamp; the numbers upon which the work is to be performed is also given to the timekeeper, or the man who is to represent the company in performing the work.

Q. In this case that timekeeper to whom you refer was whom? A. Mr. Putzar.

Q. And those numbers were given to him?

A. The numbers on the entire job were given to Mr. Putzar.

Q. Now, have you a list of the numbers that were used upon the ship work?

(Testimony of Richard W. Curtis.)

A. The list of numbers that were used on the ship or ship work—

Q. As distinguished from shop work?

A. Yes— are on Mr. Putzar's sheets. They were inserted there from my list that I gave him.

Q. Can you segregate those numbers now?

A. No, sir; I could not.

Q. I do not mean segregate, but name the numbers.

A. I could, yes. I could by means of his lists.

Q. Well, you take his lists then, and give us those numbers from them.

A. 5295; 5297; 5296; 5318; 5346; 5360; 5325; 5394; 5398. That, I believe, is all.

Q. Did those numbers run in the shop as well as on the ship? A. Yes, sir.

Q. Are those the numbers included in Schedule No. 1 in the libel?

Mr. McCLANAHAN.—I object to the question upon the ground that Schedule No. 1 of the libel is not shown to have any job number on it. [1253—1165]

Mr. FRANK.—That is just the reason that it is competent.

A. Schedule No. 1—that is the bill here—marked "Schedule No. 1," contains all of the time and material used on the steamer "Hilonian" under those numbers I have just mentioned.

Q. Now, the other schedules all bear a number, and I will ask you whether or not those are the numbers under which the particular work under which each

(Testimony of Richard W. Curtis.)

of the other schedules was made.

A. Schedule No. 2, all of the material thereon was furnished under order 5299. Schedule No. 3, all of the material contained on this schedule was furnished under order 5528 and 1818.

Q. Page 2 of Schedule 3 was withdrawn?

A. Schedule 4, all the material and labor on Schedule 4, was performed and furnished on order 5295.

Q. Take them in their order.

A. Schedule 5, all the labor and material performed on this schedule was done under 5390. Schedule 6, all the labor and material performed on this schedule under order 5317. Schedule 7, all the labor and material performed under this schedule was performed under order 5401. Schedule 8, all the labor and material performed on this schedule was performed under order 5009. Schedule 9, all the labor and material performed on this schedule was performed under order 5389. Schedule 10, all the labor and material under this schedule was performed under 5313.

Q. Now, Schedule No. 4—5295, how does it happen that that schedule bears that number, and not a separate and distinct number?

Mr. McCLANAHAN.—I object to that upon the ground that 5295 is on its face a separate and distinct number. [1254—1166]

Mr. FRANK.—Q. I mean a separate and distinct number from the number included in Schedule 1.

Mr. McCLANAHAN.—I object to that upon the

(Testimony of Richard W. Curtis.)

further ground that the witness has not given to Schedule No. 1 a separate and distinct number. ,

A. Schedule No. 1, one of the numbers of that schedule, is 5295. The same number appears on Schedule No. 4, for the reason that the work on Schedule 4 was commenced under No. 5295. There was a price then agreed for the value of this work, and as soon as it became known to me, and also from the agency of the cards and the material cards, I took this matter up with the foremen of the different departments, and I took the time and the material pertaining to the different parts mentioned on Schedule 4 out of 5295 which belongs to Schedule No. 1. I did this by taking the cards as they were turned in each day, consulting with the foremen and the men that performed the work both as to the time and the material consumed on it, and withdrew these cards.

Mr. FRANK.—Q. The cards for the time and material which makes up Schedule 4, is not included in any of the charges in Schedule 1; is that right?

A. Yes, sir; that is right.

Q. I understand that you did that as the work went along?

A. As the work went along, as I stated.

Q. Now, with respect to the numbers on these other schedules, where there is an agreed price for the work, some of those numbers appear upon the exhibits, cards and stock cards as put in evidence. State whether or not the time and material under those numbers is at all included in the bill Schedule No. 1. A. No, sir, they are not.

(Testimony of Richard W. Curtis.)

Q. State whether or not those numbers as they appear in the [1255—1167] cards show all the work or material furnished under those numbers.

A. No, sir, they do not, only the cards that show those numbers that are in the schedule mentioned, show time on these other schedules; that is, the numbers are there, but I cannot call them off.

Q. No. 1.

A. Let me have that and I will tell you. I could explain that better by calling the numbers of the schedules off in this way, that I have presented cards here that show numbers pertaining to work on the various schedules whereon an agreed price has been set, but these cards do not show a complete record of the time put in on these agreed price numbers, for the reason that we do not keep the cards of agreed prices because they do not concern anyone other than the man that is on the vessel, or representative, who sees that the work is performed correctly. He has nothing to do with the time, and therefore we do not think there will be any dispute regarding it, and therefore we destroy them. In this case, some of the cards show these numbers for the reason that numbers contained in Schedule No. 1 are contained thereon.

Q. That is, on the cards?

A. Yes, sir; on the cards.

Q. Now, do you know a man by the name of Charles Linde, who was working at the works at this time? A. Yes, sir, I do.

Q. Where is he now?

(Testimony of Richard W. Curtis.)

A. At the present time he is in New York City.

Q. Have you ascertained that by making a search for him?

A. I searched all over for him. I went to the various places where he was employed. I went to the Stationary Engineers' Union and ascertained from the Secretary that the man was in New York City.

Q. He could not be found, at any rate, in this jurisdiction? [1256—1168]

A. Yes, sir. That is, I could not find him unless I went to New York City.

Q. Now, what is the nature of the work that he performed over there?

A. Mr. Linde was the regular engineer, the day engineer, and he was on on Sundays and holidays on the "Hilonian," that is, he run the power-house during the time that the "Hilonian" was there on Sundays and holidays. He was also on one day that Mr. Ferro was not on.

Q. Now, who pays off the men, Mr. Curtis?

A. I pay the men off.

Q. At the time that they are paid off, do they sign their clock cards?

A. The men draw these clock cards from the office and present them to me at the pay-window to be paid off. Before they receive their money they sign their name on these cards before me; and in the case of new men that have never been up to the pay-window before drawing their pay the foreman of the department identifies that man, and he signs his name in front of me.

(Testimony of Richard W. Curtis.)

Q. Generally, you are acquainted with the men in the works? A. Yes, sir.

Q. You have been paying them off for—

A. For the last 12 years.

Q. Now, I present to you two cards of Charles Linde, and ask you if that is his signature appended to it (handing). A. That is Mr. Linde's signature.

Q. I now present you the time-cards for August 29th, September 4th, 5th, 6th, 9th, 12th and 19th, and ask you whether or not those are the cards that were passed in to you on the several days therein mentioned as the cards of Charles Linde.

A. These are Mr. Linde's cards, and on the face of these [1257—1169] cards are notations—

Mr. McCLANAHAN.—I object to the witness volunteering statements not covered by the question.

Mr. FRANK.—Q. Go right on, Mr. Curtis.

A. (Continuing.) —are notations in my handwriting on the face of these cards. The reason of that is this: Mr. Linde is the regular day engineer, and when Mr. Linde turns in time for any holiday work, I have always made it my business to see Mr. Linde personally regarding it, and I have made these notations on these cards for the purpose of charging correctly.

Q. That is the notations made at the time that the card is turned in?

A. Yes, sir. As I said before, I checked these cards up daily. There is a notation on Sunday the 19th—

Mr. McCLANAHAN.—I object to further vol-

(Testimony of Richard W. Curtis.)

untary statements on the part of the witness. No question is before him.

Mr. FRANK.—Q. Go on.

A. I wish to explain the cards in detail. On Sunday, August 19th, there is a notation here by me for 23 hours steam. The reason that that is on this card is this, that Mr. Linde during his regular day's work outside of Sundays and holidays does not turn in any time-cards as he is paid by the month. This notation of 23 hours steam was placed on this card by me after questioning Mr. Linde as to the amount of time consumed in pumping steam to clean out the oil-tanks on the steamer "Hilonian."

Mr. McCLANAHAN.—I object to the statement and ask that it be stricken out as hearsay.

Mr. FRANK.—Q. And the other cards?

A. With the exception of the notations they are all in Mr. Linde's handwriting. [1258—1170]

Q. They came to you in the regular course?

A. They came to me in the regular course of business. The regular course that is pursued over at the United Engineering Works.

Q. And retained in your possession as you have stated until turned over to me? A. Yes, sir.

Mr. FRANK.—We offer these cards in evidence and ask that they be marked "Linde's Exhibit No. 1."

Mr. McCLANAHAN.—Let me look at them.

Q. Mr. Curtis, these notations that you have referred to as being in your handwriting on these cards were placed on there as the result of information re-

(Testimony of Richard W. Curtis.)

ceived from Mr. Linde at the time?

A. They were in this way: I knew that the "Hilonian" was working overtime on these days. For that reason I went to Mr. Linde and questioned him regarding his cards as they came in each day.

Q. As the result of the information which he gave you, you made the notations on the cards?

A. I certainly did.

Mr. McCLANAHAN.—I object to the cards as incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent.

Mr. FRANK.—Q. With reference to these particular cards Mr. Curtis, state whether or not you have checked them up against the time appearing on Mr. Putzar's time-sheet for the power furnished by the power-house.

Mr. McCLANAHAN.—I object to that as immaterial.

A. I have checked them up with Mr. Putzar's time-sheets.

Mr. FRANK.—Q. And how do they compare?

A. They are correct.

Q. Of course, Mr. Putzar's time-sheet does not contain any [1259—1171] charge for time for Mr. Linde?

Mr. McCLANAHAN.—I object to the question upon the ground that the time-sheets are the best evidence of what they show.

A. No, sir; it does not.

(The cards are marked "Linde Exhibit No. 1.")

Mr. FRANK.—Q. I show you now, Mr. Curtis, in

(Testimony of Richard W. Curtis.)

order to get them straightened out first, a card of Dave Doig, Jr., of September 12th, "Adamson Exhibit 65"; September 6th, "Adamson Exhibit 64," and August 29th, "Admanson Exhibit 63," and before taking them up I will ask you where Dave Doig, Jr., now is? A. Dave Doig, Jr., is in Alaska.

Q. Have you made diligent search for him?

A. I have made every inquiry to get him.

Q. I show you these cards that I have mentioned, and ask you whether that is his handwriting, that is his signature at the head of it?

A. Yes, sir, that is his handwriting, and that is his signature.

Q. And those cards came to you in the usual course? A. Yes, sir.

Q. In the same way as the other cards?

A. Yes, sir; in the same condition.

Mr. McCLANAHAN.—Are you not going to reoffer them?

Mr. FRANK.—Yes, I will reoffer them in evidence if it is necessary. They have already been offered.

Mr. McCLANAHAN.—I should like to have them reoffered so as to make an objection.

Mr. FRANK.—Very well; they are reoffered.

Mr. McCLANAHAN.—Q. Mr. Curtis, is Dave Doig, Jr., a helper or machinist?

A. Dave Doig is a machine hand, a machinist, working on a lathe. [1260—1172]

Q. Did you ever see him write?

A. Did I ever see him write? Mr. Doig has been

(Testimony of Richard W. Curtis.)

in the employ of the United Engineering Works probably for about seven years, and I have continually seen his signature and paid him off and seen his cards.

Mr. McCLANAHAN.—We object to the reoffer of the cards upon the ground that it is incompetent, irrelevant, immaterial, hearsay, self-serving and not binding on the respondent.

Mr. FRANK.—Q. Did you know O. Haglund?

A. Yes, sir.

Q. He was employed in those works?

A. Yes, sir.

Q. In what capacity was he employed?

A. He was a punch-shear and counter-sink hand.

Q. What is his present condition?

A. Mr. Haglund is considered just at the present time weakminded. That was the reason why we let him out of the United Engineering Works. We were afraid he would hurt somebody before he got through.

Q. In other words, what you would call “nuttty?”

A. Yes, sir; you can call it that.

Q. How long was he employed in the works?

A. He was employed for about 5 or 6 months, and he was employed on and off; they employed him on and off.

Q. Did he sign his clock cards before you?

A. Yes, sir.

Q. And those are his signatures made before you on his clock-cards (handing)?

A. Yes, sir.

Q. I now present to you cards bearing his name

(Testimony of Richard W. Curtis.)

under date of August 29th, August 30th, August 31st, September 1st, September 2d, September 4th, September 7th, September 8th, September 10th, September 11th, September 12th, and September 22d, and [1261—1173] ask you whether or not the signatures on those cards are his signatures.

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, they are.

Q. Did these cards come to you in the regular order?

A. Yes, sir; they came to me under the same conditions as I explained before.

Q. And have been in your possession ever since?

A. Yes, sir; they have.

Q. From what you know of his handwriting—

A. I know his handwriting.

Q. — can you say whether the body of these cards are also in his handwriting?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir; they are in his handwriting. I also know that from checking them every day with these men, and they have been in my possession ever since.

Q. They have been in your possession ever since?

A. Yes, sir.

Mr. FRANK.—We will offer these cards in evidence and ask that they be marked “O. Haglund Exhibit No. 1.”

Mr. McCLANAHAN.—I object to the offer upon the ground that they are incompetent, irrelevant, im-

(Testimony of Richard W. Curtis.)

material, hearsay, self-serving, not binding on the respondent.

(The cards are marked "O. Haglund Exhibit No. 1.") [1262—1174]

Mr. FRANK.—Q. Did you know a man in the employ of the works at that time by the name of John Knight? A. John Knight?

Q. Yes. A. Yes.

Q. What has become of him?

A. John Knight is dead. He died as a result of an accident over there. He was injured at the yard one night working there overtime, and he was caught in the drill-press, and his arm was torn from its socket. I know that because it is my business to go to the yard when anyone is injured, as we carry employer's liability insurance, and this requires that we should get certain data concerning the man, how long he worked, how he got hurt, what was the injury, and the condition of the tool, and I know that that man worked on the part that is on his time-card, for the simple reason that I was there and I looked it over in order to get this report up properly.

Q. You mean you were at the works?

A. I was called to the works.

Q. Immediately after his injury?

A. Immediately after the man was injured.

Q. Was the man there when you got there?

A. The man was there, yes, and I had him removed to the hospital.

Q. How was his card made out?

A. I went to the tool to look over the conditions

(Testimony of Richard W. Curtis.)

under which he was injured, and I instructed the timekeeper at that time to make out his time; the article he was working on was on the tool, and it was marked. I saw him make out the time. The man was unable to write anything owing to the fact that his arm was in no condition to write.

Q. Well, did you satisfy yourself that the time was right?

A. Yes; I satisfied myself that the time was right.

Q. Is that the card that was made out at that time? A. Yes, that is the card. [1263—1175]

Mr. FRANK.—We offer that card in evidence and ask that it be marked Knight's Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant, incompetent, self-serving and not binding on the respondent.

(The card is marked "Knight's Exhibit No. 1.")

Mr. FRANK.—Q. Who was P. Larsen?

A. P. Larsen was an iron worker in our employ at that time.

Q. Have you made search for him?

A. I have.

Q. Have you been able to find him?

A. I have been unable to find him. I have gone to different places where he was employed after his discharge from our yard, and I traced him from one point to another, and I have given up the search, because they could not tell me at the last place where he went; he evidently went North; I believe he went to Alaska.

Q. Now, are these the clock cards on which he

(Testimony of Richard W. Curtis.)

signed in your presence? A. Yes, sir.

Q. I hand you the time-cards now of August 30, 31, September 1, 2, 4, 7, 8, 10, 11, 12, and ask you whether or not those cards were in his handwriting.

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, they are.

Mr. FRANK.—We offer these cards in evidence and ask that they be marked Larsen's Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant and incompetent, self-serving, hearsay, and not binding on the respondent.

(The cards are marked "Larsen's Exhibit No. 1.")
[1264—1176]

Mr. FRANK.—Q. Those cards came to you in the regular course? A. Yes, in the regular course.

Q. As you have already indicated?

A. Yes, as stated before, under the same conditions.

Q. Now, I show you the clock card of Charles Vaccarez, and ask you if that is the signature of that man made in your presence. A. Yes.

Q. What has become of him?

A. This man is an Italian, and after he left our employ he went into the employ of the Southern Pacific Company, and I traced him through the Southern Pacific to different section gangs, and they said he went to a cannery; outside of that I could not find him; he was a considerable time there and from the cannery he went to Alaska on one of the

(Testimony of Richard W. Curtis.)

cannery vessels.

Q. On one of the cannery vessels? A. Yes.

Q. I show you his card and ask you if that is in his handwriting. A. Yes, that is his handwriting.

Q. That came to you in the same way as the others? A. Yes.

Q. Checked up in the regular course?

A. Yes, under the same conditions.

Mr. FRANK.—We offer them in evidence and ask that that be marked Vaccarez Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant and incompetent, self-serving, hearsay, and not binding on the respondent.

(The cards are marked “Vaccarez Exhibit No. 1.”)

Mr. FRANK.—Q. I show you the clock card of Jack Dominick and ask you if that was signed in your presence. A. Yes.

Q. I now show you his card of September 9 and ask you if that is a card made out by him.

A. Yes. [1265—1177]

Q. Which came to you in the regular course?

A. Yes.

Q. I see a notation on the bottom; in whose handwriting is that?

A. That notation is made in my handwriting.

Q. Made when?

A. Made at the time the card was turned in, for the simple reason he has got marked “power-house” and I wanted to see what he was doing, and I looked him

(Testimony of Richard W. Curtis.)

up, and he is attending to steam lines; I noted that on there.

Mr. FRANK.—I will offer this in evidence and ask that it be marked Dominick Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant and incompetent, self-serving, hearsay, and not binding on the respondent.

(The cards are marked “Dominick Exhibit No. 1.”)

Mr. FRANK.—Q. Now, I show you the clock card of James Noleroth, and ask you if that was signed in your presence and if that is his signature.

A. Yes, sir.

Q. I forgot to ask you, in reference to these former men whether or not you know them to be employed at that time?

A. Yes; I knew these men to be employed at that time.

Q. What was Vaccarez’s occupation?

A. Vaccarez was a helper.

Q. What was P. Larsen’s?

Mr. McCLANAHAN.—Please make a note, Mr. Reporter, that counsel is handing to the witness the time-cards of these respective men as he asks the question.

A. P. Larsen is an iron worker.

Mr. FRANK.—Q. What was O. Hagland?

A. O. Hagland, he was a punch and steam and counter-sink hand.

Q. Jack Dominick?

(Testimony of Richard W. Curtis.)

A. Jack Dominick was a helper.

Q. John Knight?

A. John Knight, a machinist. [1266—1178]

Q. I now show you two time-cards of September 14 and September 20, and ask you if those are in Mr. Noleroth's handwriting. A. Yes.

Q. And came into you in the same manner and passed upon by you? A. Yes, sir.

Q. As you have heretofore testified? A. Yes.

Q. Where is Noleroth?

A. I hunted him up at his residence; he changed his residence two or three times, and he went to Los Angeles, and he went to work for some shipbuilder there, and from there he was said to have gone further south. I could not get him any further than that; they told me that his mail had been returned from Los Angeles, and that was as far as I could go with him.

Q. What was his classification?

A. He was a helper.

Mr. FRANK.—We offer that in evidence and ask that it be marked Noleroth Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant, and incompetent, hearsay, self-serving and not binding on the respondent.

(The cards are marked "Noleroth Exhibit No. 1.")

Mr. FRANK.—Q. I show you the clock cards of Edward Smith and ask you if those were signed in your presence. A. Yes, sir.

(Testimony of Richard W. Curtis.)

Q. I now show you his cards dated August 27, 28, 30 and 31, September 1, 3, 4, 7, 10, 11, 12, 14, 15, 16 and 18, and ask you if those cards came to you in the same way that the other cards did, subject to the same process of inspection.

A. Yes. They are all in his handwriting with the exception of September 4.

Q. They came to you in the manner already indicated, did they?

A. Yes, under the same conditions. [1267—1179]

Q. What is there about September 4th—anything that you remember at all?

A. My recollection of it is that the man was hurt, and the man that was working with him wrote out his card.

Q. How did you happen to—

A. Well, we don't accept a card written by another man unless we find the reason.

Q. What was his classification?

A. He was a machinist.

Mr. FRANK.—We will offer these in evidence and ask that they be marked "Ed Smith Exhibit No. 1."

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant and incompetent, hearsay, self-serving, and not binding on the respondent.

(The cards are marked "Ed Smith Exhibit No. 1.")

Mr. FRANK.—Q. I show you the clock card of Joe Perry and ask you if that is the signature of the

(Testimony of Richard W. Curtis.)

man made in your presence. A. Yes.

Q. I now show you his time-cards of September 12, 21 and 24, and ask you if these cards came to you in the regular course as you have already indicated.

A. Yes, they did.

Q. Have you made search for Ed Smith?

A. I made search for Ed Smith.

Q. With what result?

A. I have been unable to locate him; he has left the state, so far as I know, by looking up people that knew him and came in contact with him continually, and who knew where he was employed at various times.

Q. You have been unable to find him?

A. I have been unable to locate him.

Q. How about Perry, what has become of him?

A. Joe Perry is in the same position. He left our employ and went to the Southern Pacific on a section gang; we hunted him up from there, and they [1268—1180] claimed they had shipped him up north, but so far as they knew what camp he went to they could not tell me; that was as near as I could get to it.

Q. Are those his cards?

A. Those are his cards.

Q. Came to you in the regular course?

A. Yes, under the same conditions.

Mr. FRANK.—We offer the cards in evidence and ask that they be marked Joe Perry Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant and incom-

(Testimony of Richard W. Curtis.)

petent, hearsay, self-serving, and not binding on the respondent.

Mr. FRANK.—Q. September 14, J. Petrocelli, did that card come to you in the usual course?

A. Yes.

Q. Have you made any search for him?

A. I have, under the same conditions, in the same manner as the others, and unable to find him.

Q. Is that his card?

A. That is his card, that is his handwriting.

Mr. FRANK.—We offer that in evidence and ask that it be marked Petrocelli Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground that it is immaterial, irrelevant and incompetent, hearsay, self-serving, and not binding on the respondent.

(The card is marked "Petrocelli Exhibit No. 1.")

The WITNESS.—He was an iron worker.

Mr. FRANK.—Q. Here is one Louis Perry.

A. He is a brother of Joe Perry; that is his signature.

Q. To his clock card? A. Yes.

Q. Is that his card? A. Yes.

Q. Come to you in the same way as the other cards?

A. Yes. [1269—1181]

Q. Have you made search for him?

A. Yes, they travel together; I could not find either one of them.

Mr. FRANK.—We offer that in evidence and ask that it be marked Louis Perry No. 1.

Mr. McCLANAHAN.—We object to the offer on

(Testimony of Richard W. Curtis.)

the ground that it is immaterial, irrelevant and incompetent, hearsay, self-serving and not binding on the respondent.

(The card is marked "Louis Perry Exhibit No. 1.")

Mr. FRANK.—Q. Have you made search for C. Schmidt?

A. Yes, I made search for C. Schmidt. He was a machine hand in our employ, and after he left our employ he went to various places, and after that, from what I could find out, he went home; he lives in Peru.

Q. Is that C. Schmidt or William Smith?

A. Well, C. Schmidt. Both are related to one another. They both quit and worked in the same place after they left our yard, and I know that they went to Peru—that is what they told me.

Q. C. W. Higgins; did you make search for him?

A. I made the same search for Higgins and was unable to find him at all; he left the places where he was employed in Oakland and nobody knew where he went to.

Q. Dunn?

A. Dunn was one of our pick-up men. I understood he went home to Europe.

Q. You could not find him?

A. I could not, no.

Q. Furman?

A. Furman was also a transient man, a pick-up man, not a regular hand, and I made search for him and I could not locate him.

(Testimony of Richard W. Curtis.)

Q. Holmquist? A. The same way. [1270—1182]

Q. Reed? A. The same way.

Q. Williams? A. The same way.

Q. Albers? A. The same way.

(A recess was here taken until 2 P. M.) [1271—1182½]

AFTERNOON SESSION.

RICHARD W. CURTIS, direct examination resumed:

Mr. FRANK.—Q. I show you a card of M. W. Albers, September 12th, part of “Adamson Exhibit 137”; Williams, August 29th, September 5th, 6th and 12th, part of “Adamson Exhibits 127 and 128”; Reed, September 5th and September 6th, part of “Adamson Exhibit 122”; Charles Holmquist, September 5th, part of “Adamson Exhibit 112”; Furman, September 5th, September 6th and September 12th, part of “Adamson Exhibits 107 and 117”; William Schmidt, September 5th, 6th, 9th and 19th and August 29th, part of “Adamson Exhibits 94, 95 and 96”; Dunn, September 6th, part of “Adamson Exhibit 77”; and Higgins, September 6th, part of “Adamson Exhibit 19,” and ask you if you have compared the signatures on those cards with the clock cards signed before you, and whether the several cards are the cards of those several men for the dates in question.

Mr. McCLANAHAN.—I object to the question on the ground of its materiality, and further object to

(Testimony of Richard W. Curtis.)

it upon the ground that the witness has not qualified as a handwriting expert.

A. These cards in the handwriting of the individual employees; I have compared them with the clock cards and certify that these are the original signatures of the employees themselves.

Mr. FRANK.—Q. Did those several cards come to you in the regular order as you have already testified? A. Yes, sir.

Mr. FRANK.—I simply reoffer these cards.

Mr. McCLANAHAN.—We renew our objection on the ground that they are incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent. [1272—1183]

Mr. FRANK.—Q. Mr. Curtis, there are certain articles charged in this Schedule No. 1 by weights, in which no weight is indicated on the stock cards. Will you tell me how the weights for those several articles are ascertained?

A. The only stock cards that were not weighed in the shop are the stock order cards for plates and angles. These are taken out of the stockroom or storeroom and measured off, and charged off by size on the card. The cards were then turned over to me and I figured them up from tables.

Q. That is, there are standard tables that give the weights of these several articles? A. Yes, sir.

Q. Just indicate or read off from Exhibit Schedule No. 1, the particular articles where the weights are ascertained in that method. A. Sheet-iron.

Q. Where is that? On the first page of that ex-

(Testimony of Richard W. Curtis.)

hibit? A. Yes, sir.

Q. Just call it off by items on the sheet that you have before you and we will use it afterwards as an exhibit.

A. Item No. 6, sheet-iron; item No. 7, steel-plates; item No. 8, channel and angle iron; item No. 9, angle iron; item No. 73—that will be the third page—checkered floor plate; item No. 74, galvanized sheet-iron. That is all.

Q. Those items you say you figured out yourself from the tables? A. Yes, sir.

Q. And the amount stated in the bill is the correct result? A. Yes, sir.

Q. How is the price of the template wood arrived at?

Mr. McCLANAHAN.—I object to that as immaterial and calling for the conclusion of the witness.
[1273—1184]

A. The template wood is charged up by the foot from the tags from the storeroom.

Mr. FRANK.—Q. At how much per foot?

A. At the rate of 8 cents per foot here.

Q. That was done by you also, was it?

A. Yes, sir.

Q. And these charges then are your own figures?

A. Yes, sir.

Q. With reference to the charges for labor on the bill of October 25th, 1910, being Schedule No. 3, page 1, how was that arrived at, Mr. Curtis?

A. The work on this bill was ordered by Mr. Putzar when he was chief engineer of the vessel.

(Testimony of Richard W. Curtis.)

Q. Subsequent to the time when the work on the other bills were made? A. No, after.

Q. I say subsequent? A. Yes, sir.

Q. After all that other work had been finished?

A. Yes, sir, Mr. Putzar ordered the various items on this bill and superintended the construction of it. The items were charged up to the job number at the bottom of this bill in the usual manner and way we have of charging such work.

Mr. McCLANAHAN.—I move that the answer be stricken out as not responsive to the question.

Mr. FRANK.—Q. That is the same as these time-cards and material cards that are already in evidence?

A. No, sir—that is in the same manner, yes. The same forms were used, the same general rule, the same method you might say that these stock order cards and labor cards were gotten together, and a charge was made out as you see it here for all the labor and material. This bill when completed was presented to Mr. Putzar by me, and he was asked if this bill be satisfactory [1274—1185] and if he would please check it up. He went over the bill, and some time afterwards, on the same day, told me that it was satisfactory, and to send the bill in to his owners, that is, the Matson Navigation Company. That being the case, that Mr. Putzar O. K.'d this bill, the material cards and labor cards were not kept but were destroyed as we considered that the engineer after passing on the bill as satisfactory, there would be no more comment about it; in fact, we have never

(Testimony of Richard W. Curtis.)

heard any comment as to this bill being wrong in any way or considered wrong in any manner.

Q. And no objection was made to it?

A. No, sir.

Q. By the Matson Navigation Company?

A. No, sir, not by the Matson Navigation Company.

Q. Is this summation of the labor made by you personally?

A. Yes, sir, in the same manner as the summation on any other bill is made.

Q. How did it happen, Mr. Curtis, that another bill was made out as shown by page 2 of No. 3, which was afterwards included in page 1 of No. 3?

Mr. McCLANAHAN.—I object to the question upon the ground that there is no evidence to show that it was afterwards included in page 1 of Schedule 3.

Mr. FRANK.—The schedule shows it on its face.

Mr. McCLANAHAN.—I do not agree with counsel. The two pages are dated differently and are numbered differently.

Mr. FRANK.—They are not numbered differently.

Mr. McCLANAHAN.—Mine is. It may not be a correct copy.

Mr. FRANK.—You have spoken about that several times, but we are not called on to give you any copy. We did that as a [1275—1186] matter of courtesy. If we have made a mistake in the copy you have had an ample opportunity to get the correct ones from the Court as they were filed.

(Testimony of Richard W. Curtis.)

A. In regard to page 2, Schedule 3, page 2 calls for the making of one low pressure piston follower; one square set of high-pressure piston rings. This work on page 2 was started and completed at our Alameda shop under job number 5528. When the vessel came into port, the piston and the rings were sent over to the city shop, and the installation was made under the city shop number 1818, with various other work that was ordered at the time that the ship was in the harbor. When the bill was being made out the two numbers 1818 and 5528 were combined into this bill Schedule 3, page 1. The bill of 5528, that is marked 5528, page 2, was cancelled on our books.

Q. Now, with reference to the charges on Schedule No. 4 and Schedule No. 9. Was there ever any question made by the Matson Navigation Company as to the correctness of those items?

A. Which items do you include?

Q. Any items on those two schedules?

A. No, sir.

Q. Did you personally present those to Mr. Saunders for approval?

A. I sent the bills in to the Matson Navigation Company, and then called on them for payment of these bills.

Q. At that time state whether or not Mr. Saunders had O. K.'d those bills.

A. At the time that I asked for payment of those bills they were taken off the file by Mr. Gregg. He looked them over and took them to Captain Saunders who was sitting at a desk close by, and asked him to

(Testimony of Richard W. Curtis.)

look over the bills and if they were right, he would pay them. He asked Captain Saunders to O. K. them.

Q. Did Mr. Saunders O. K. them?

A. Captain Saunders O. K.'d those bills. [1275½—1187]

Q. I show you two papers and ask you whose signature C. W. S. is, attached to those bills?

A. It is the signature of Captain Saunders.

Q. Was that put on at that time?

A. Yes, sir. Captain Saunders O. K.'d these two bills before me.

Q. I notice that they are marked "paid" and that is afterwards stricken out?

A. After Captain Saunders O. K.'d these bills Mr. Gregg wrote out a check and tendered it to me as payment to cover these items and several other items in that check. I took the check to my people and it did not meet with their approval. I returned the check to Mr. Gregg, and he returned these bills to me and I withdrew the bills.

Mr. FRANK.—We offer these bills in evidence and ask that they be marked Curtis Exhibit No. 1 and Curtis Exhibit No. 2.

(The bills are marked "Curtis Exhibit" and "Curtis Exhibit No. 2," and are as follows:)

[Curtis Exhibit No. 1.]

“UNITED ENGINEERING WORKS.

San Francisco, Cal. September 27, 1909.

Sold to Str. ‘Hilonian’ & Owners.

Bored out and remetal 5 spring-bearings as agreed.	\$330.00
Remetal horse shoes in thrust on one side only—plane to size—groove for oil and fit to collars—as agreed.	146.88
Grind off I. P. piston rod—as agreed.	50.00
Supply and fit in place 5-3/8” check floor plates as agreed.	50.00
New elbow in Donkey boiler stack—as agreed	40.00
	<hr/>
	\$616.88

Paid Sept. 24/09.

CWS. UNITED ENG. WORKS,
CURTIS.” [1276—1188]

[Curtis Exhibit No. 2.]

“UNITED ENGINEERING WORKS,

San Francisco, Cal. September 24, 1909.

Sold to Str. ‘Hilonian’ & Owners.

Make new smoke stack 8’ x 46’ Remove old
stack and install new one. Enlarge
casing below umbrella. Make new top
for breeching, and 2 turnbuckle hang-
ers.

To construction of new smoke stack remov-
ing old and installing new. \$ 900.00

(Testimony of Richard W. Curtis.)

Enlarged casting as agreed..... 60.00

Made new top for breeching and made 2 new
turnbuckle hangers—as agreed 180.00

\$1140.00

Paid Sept. 24/09.

CWS.

UNITED ENG. WORKS,
CURTIS."

Q. Now that we may keep this record straight, I understood you to say that all of the time-cards and material cards on which work was performed by any of the men under the numbers which you say are charged up in Schedule No. 1, were preserved and all other cards have been destroyed? A. Yes, sir.

Q. And that there are no cards in Schedule No. 1 except those that had work on applying to that particular schedule? A. Yes, sir.

Q. Now, there was something said here by some of the men about new numbers being given to all changes that are made on the working list as they progress. I presume that is the general rule, is it not?

A. That is the general rule, and then it is not in some ways because owing to conditions. A vessel might go to the yard, and the Captain or whoever represents the concern that owns her has a certain amount of work laid out to be done. As a general rule, we give that list of work a number, and if there is any work that is departed from that list why [1277—1189] then we give that work a number. But in the case of the "Hilonian," the changes be-

(Testimony of Richard W. Curtis.)

came so numerous that it would be impossible to give every change a number, so then the work was considered collectively, that is, the job was run collectively under the numbers as mentioned in Exhibit 1.

Q. Then, does 5295 contain work not included in the original list of 5295?

A. 5295 includes a great deal more work than what was set forth in the original list that was put under the number of 5295.

Q. How does that occur?

A. In this way. When I went over to the yard, as it is my duty, I go through the different departments. The foremen stated to me there were numerous changes being made from the lists which they had. They said that there were a number of numbers placed to cover these changes. I explained to them at the time that that was under my orders. Then they stated that the changes were becoming so numerous that if I wanted to keep track of all these changes I would have to put in a great many numbers, so in order to simplify that I instructed the foreman of every department to use the numbers on the job collectively and to note on their sheets the work as they actually performed it. I also spoke of this to the President of the company on account of so many changes being made on this job, and he sanctioned my ruling.

Mr. McCLANAHAN.—I object to any conversation between the President of the company and the witness, and ask that it be stricken out.

Mr. FRANK.—Q. As the result of this, what I

(Testimony of Richard W. Curtis.)

wish to develop is whether or not 5295 contains work different from the original lists and many changes not noted. [1278—1190] A. Yes, sir, it does.

Q. Were some of these changes great deviations?

Mr. McCLANAHAN.—I object to the question as leading.

A. Yes, sir, there were many of the changes great deviations because they were brought to my attention at that time.

Mr. FRANK.—Q. Would it be possible at this date to segregate those changes?

A. No, sir, it would not. They could not be segregated.

Q. You did, however, segregate part of them under the bill as you have testified to, of Exhibit No. 4. How did you do that?

A. That was a change that was performed on 5295, and I was informed that a price has been given for that work. Immediately on this information, and as the work was progressing I went over there and called on the men that performed this part of the work and were performing it, and the foreman of their different departments, and took those cards containing the labor and the material containing these parts out of 5295.

Q. You did that at the time the work was progressing? A. Yes, sir.

Q. And had the pieces before you?

A. Yes, sir, they were in the shop.

Q. Now, you have testified this morning about the time-sheets kept by Mr. Putzar on the work as it was

(Testimony of Richard W. Curtis.)

progressing on the ship. What if anything did you do with respect to the checking up of that time with Mr. Putzar?

A. After the cards were all in and checked up—

Q. I mean as the work progresses?

A. As the work progresses?

Q. Yes.

A. Well, Mr. Putzar turned the sheets over to me and I checked them up with my cards. He stated the time he turned them over to me that the sheets were correct. I checked them up with my cards and found them to be correct. [1279—1191]

Q. I show you a series of sheets, and ask you to look on the reverse side and tell us whose signature that is to those sheets under the heading “time on board, correct. E. L. Putzar, timekeeper.”

A. That is Mr. Putzar’s signature. He was the timekeeper on the ship, the man that I checked up with.

Mr. FRANK.—Now, Mr. McClanahan, you will find that one of those time-sheets has not been delivered up to us, namely, that of September 15th, and I ask for that now. I should like to take that out of your book. You have a duplicate of it there.

Mr. McCLANAHAN.—There it is (handing).

Mr. FRANK.—Q. Is that Mr. Putzar’s signature to that time-sheet of September 15th (pointing)?

A. Yes, sir, it is.

Q. Do you remember anything about the failure to get that time-sheet?

A. I remember this about it, that Mr. Putzar, when

(Testimony of Richard W. Curtis.)

he delivered the time-sheets to me, did not deliver that sheet to me, and I asked him two or three times about it, and he said he would deliver it. I asked him at the time if the time was all right on the sheet. He said yes, and I got the cards for it returned from him. Then towards the end when he turned the sheets over to me I asked him again about it, and he said just as soon as he had them he would send that up to me.

Mr. FRANK.—Mr. McClanahan, this memorandum here “Duplicate sheet, see next page”; what are those initials, William G?

Mr. McCLANAHAN.—I do not know, Mr. Frank. I do not know anything about that writing on there.

Mr. FRANK.—William G, or Wm. G., duplicate again, and the date “10/3/11. See next page.” Do you say you do not know anything about it? [1280—1192]

Mr. McCLANAHAN.—No.

Mr. FRANK.—Who would know about it?

Mr. McCLANAHAN.—I have not the slightest idea.

Mr. FRANK.—That is someone who was checking up.

Mr. McCLANAHAN.—I have not any knowledge of that writing on there at all, Mr. Frank.

Mr. FRANK.—You do not know, Mr. McClanahan, when or how that was put there?

Mr. McCLANAHAN.—I have stated I have no knowledge at all of that writing. When the book

(Testimony of Richard W. Curtis.)

came in my possession that was on there, if I remember correctly.

Mr. FRANK.—I think not, Mr. McClanahan.

Mr. McCLANAHAN.—That is a funny statement for you to make.

Mr. FRANK.—It is not a funny statement. When I first got this book from you those checks were not there, so that is the reason that I state it, and I am trying to find out who did it.

Mr. McCLANAHAN.—You cannot find out by me.

Mr. FRANK.—Because that “10/3/11” is evidently a date, October 3d, 1911, and runs through your book.

Mr. McCLANAHAN.—What of it? That book was in my possession long before October 3d, 1911.

Mr. FRANK.—That is it, exactly. So the date mark in it was put in it after it came into your possession?

Mr. McCLANAHAN.—The October 3d may have been put in there; it seems to me in a different handwriting from the other. It is hard to tell.

Mr. FRANK.—I guess we will be able to find it out.

Mr. McCLANAHAN.—What is the materiality of it? How is that a material change?

Mr. FRANK.—I do not know how the materiality will be, but [1281—1193] I want to show that that was not the manner in which it originally came into your possession.

Mr. McCLANAHAN.—I do not object to your showing that, but I do not see the materiality of it.

(Testimony of Richard W. Curtis.)

It appears to be a statement of a fact that that is a duplicate of another page that is in the time-book. As a matter of fact, it appears to be the original of a carbon copy which still remains in the time-book.

Mr. FRANK.—That is right.

Mr. McCLANAHAN.—I can say to you, Mr. Frank, I will make no point about that writing on there.

Mr. FRANK.—That is all I want.

Q. Up to and including the first five names on September 17th on those time-sheets, do you know in whose handwriting that is?

A. These sheets are in the handwriting of Mr. Putzar the timekeeper on that job.

Q. Now, from the top of sheet 2 of September 17th, on the face of these sheets, in whose handwriting is that? A. They are in my handwriting.

Q. Are all those sheets signed by M. Putzar?

A. Yes, sir.

Q. As correct? A. Yes, sir.

Q. How did it occur that these particular sheets are in your handwriting, Mr. Curtis?

A. For this reason: the time-cards were turned over to Mr. Putzar to check up. He had them in his possession at that time, and had held them for some time, and as I needed the time-cards to make up my pay-roll, I demanded the cards of Mr. Putzar. I went to him aboard the ship for the cards, and he had the cards in pigeon-holes there, that is, on his desk arranged. He told me at that time he had checked up all the card and that they were all right, but that

(Testimony of Richard W. Curtis.)

he had not the time to enter them on the [1282—1194] sheets but he would check up the remaining day's time, and then enter them on the sheets and give the cards to me. A day elapsed, or possibly two days elapsed from that time. I went again to see Mr. Putzar regarding these cards and he told me that as soon as he got this day's time in that he would write the sheets and turn them over to me. I believe the following day he called at our office. He had in his possession our time-cards for work on the ship. He had these time-cards segregated as to classifications, and he asked me to write up the sheets for him as he did not have the time. He cautioned me against disturbing the arrangement of the cards as he had them; he had them according to the different classifications as he wished to check the time-sheets that I was to make out with his handbook. I completed it that day, and late that night or that afternoon Mr. Putzar called, took the time-cards and the sheets away to the vessel. The following day I believe it was, or possibly later, he returned them and stated that the sheets were correct, and he signed those sheets and gave me the originals.

Q. And delivered up the time-cards, did he?

A. I then after he signed the sheets checked them from my time-cards and found them to be correct.

Mr. FRANK.—Now, we offer these time-sheets in evidence.

Mr. McCLANAHAN.—We will have to ask for time to compare those sheets with our copy here. Will you grant that time, Mr. Frank?

(Testimony of Richard W. Curtis.)

Mr. FRANK.—Certainly. What do you mean by asking for time? You will have all the time you want. For what purpose?

Mr. McCLANAHAN.—Before we make our objection to the offer.

Mr. FRANK.—That is all right. [1283—1195]

Q. I notice on these sheets, Mr. Curtis, at the bottom of them in a circle is a number?

A. I have numbered them consecutively.

Q. And that is your number? A. Yes, sir.

Mr. FRANK.—Now, I will add a half number for this sheet, for the purpose of identification, that we have just received from the respondent. I will call it 66 $\frac{1}{2}$. I suppose the whole file might be marked Curtis Exhibit No. 3.

Mr. McCLANAHAN.—I desire to object to the offer, but I should prefer before making the explicit detailed objection, to compare it with the copy which is in our possession.

Mr. FRANK.—I have no objection to that. Of course that would not be the foundation of any objection to its admissibility.

Mr. McCLANAHAN.—It might.

(The file is marked “Curtis Exhibit No. 3.”)

Mr. McCLANAHAN.—You consent to my reserving the objection for further consideration after examination of the book?

Mr. FRANK.—Yes, I do not care anything about that. I just offered you that suggestion.

Q. These time-sheets, then, are the result of the agreement between you and Mr. Putzar as to the cor-

(Testimony of Richard W. Curtis.)

rect number of hours and classifications?

Mr. McCLANAHAN.—I object to that as leading.

A. Yes, sir.

Mr. FRANK.—Q. With regard to the ship's time-cards, to whom did they go first, whether to you or to Mr. Putzar?

A. They went to Mr. Putzar first; that is, I checked them, then they were given to Mr. Putzar and he checked them up with his handbook, made out the sheets, and returned the time-cards [1284—1196] and the sheets to me.

Q. Is that the usual way for a timekeeper to do?

A. That is the usual way in my experience, and the usual way for a timekeeper to check time.

Q. When Mr. Putzar began this work of keeping the time on the ship, did you have any discussion with him or agreement with him, respecting how the hours were to be counted and charged up?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Mr. Putzar, after the first day had been worked on the ship held up the time-cards for the reason that we were working 8½ hours a day. He came to me and asked me why the men were putting 10 hours a day on their cards. I then explained to him that 10 hours were to be placed on the cards for each day's work aboard the ship, and the reasons for so doing. He agreed to that.

Mr. FRANK.—Q. The reasons were what?

A. The reason was this: that the rates aboard for ship work was \$6.00 a day for a machinist and \$4.00

(Testimony of Richard W. Curtis.)

a day for a helper, and so on, and instead of increasing the rate per hour to be charged, which would be unwieldy, we agreed to allow the rate to remain the same, or 60 cents an hour, and increased the hours on the card.

Q. So as to make up the difference?

A. So as to make up the difference.

Q. Was that the usual practice in all iron works at that time?

A. That was the usual practice in all iron works at that time.

Q. Now, Mr. Curtis, you have been at this work a great many years, have you not? A. Yes, sir.

Q. And you are familiar with the customary prices for the [1285—1197] different articles used and set forth in this bill Schedule No. 1? A. Yes, sir.

Q. State whether or not the prices charged for these several items in Schedule No. 1 are the usual and customary prices charged at this port for that class of material.

A. They were the usual and customary charges in this port at that time.

Q. Now, there are certain charges in this bill for tools. State whether or not that is a usual and customary charge in this port at that time.

Mr. McCLANAHAN.—I object to that as immaterial.

A. It was the customary charge in the port at that time, to charge all special made tools for any vessel or job whatsoever up to that job, and the people who undertook to have work performed always paid

(Testimony of Richard W. Curtis.)

for it. Another thing: On a job where we sent out hand tools, the dressing and the repairing of those tools were charged to that job as was customary, owing to the fact that the tools were in good condition when sent out on the job, and when the vessel left the tools were repaired under our own job number or cost number.

Mr. FRANK.—Q. Has everybody been in the habit of paying for that service?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir, everybody that I have come in contact with.

Mr. FRANK.—Q. And you have dealt with all classes of people with reference to this, Mr. Curtis?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir, I have.

Mr. FRANK.—Q. Have you ever had such a charge as that questioned before? [1286—1198]

Mr. McCLANAHAN.—I object to that as immaterial.

A. No, sir, I have never had such a charge as that questioned before.

Mr. FRANK.—Q. You have a bill here, have you not, on the “Excelsior”?

Mr. McCLANAHAN.—I object to that as immaterial.

A. I have a bill here on the “Excelsior” for an overhauling job for the Underwriters.

(Testimony of Richard W. Curtis.)

Mr. FRANK.—Q. Who was the Surveyor on that job?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Captain Pillsbury was the Surveyor. His superintendent or representative was a man of the name of Cousins.

Mr. FRANK.—Q. Do these same charges appear in that bill?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir, they do.

Mr. FRANK.—Q. And accepted by them?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir.

Mr. FRANK.—I suppose, Mr. McClanahan, you would like to make a new rule at the iron works in respect to all of these details.

Q. State, Mr. Curtis, whether or not Schedule No. 1 was presented to Mr. Putzar for his approval at any time.

Mr. McCLANAHAN.—I object to that as immaterial.

A. A copy of Schedule No. 1 was given to Mr. Putzar for his approval.

Mr. FRANK.—Q. With what result?

Mr. McCLANAHAN.—I object to that as immaterial and on the further ground that Mr. Putzar has been shown to have had [1287—1199] no authority to pass upon bills or to bind this respondent

(Testimony of Richard W. Curtis.)

by any admissions as to a bill or its correctness.

A. Mr. Putzar stated that the bill was a fair bill and correct.

Mr. McCLANAHAN.—I ask that the statement be stricken out as hearsay and not binding on the respondent.

Mr. FRANK.—Now, we will have to adjourn until to-morrow morning.

Mr. McCLANAHAN.—Perhaps I had better make my objection now to the time-sheets, as you may want to clear up something.

Mr. FRANK.—Very well.

Mr. McCLANAHAN.—We object to the introduction of the time-sheets upon the ground that they are incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent; and specifically we object on the following grounds:

1. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for on the ground that the entries from September 17th to September 24th, inclusive, are not shown to be in the handwriting of any agent of the respondent, and are not binding on the respondent as entries made in the usual course of business.

2. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for, because the evidence shows that the entries from August 23d to September 24th, inclusive, are made up from time-cards and copied from time-cards prepared by parties not in the em-

(Testimony of Richard W. Curtis.)

ploy of the respondent, and for whose acts respondent cannot be held liable.

3. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for, [1288—1200] because it is admitted by the pleadings and the evidence shows that much of the labor performed and material furnished to the S. S. "Hilonian," as shown by the entries on said time-sheets, was so performed and furnished under special contracts at agreed prices.

4. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for, because on their face they show labor performed and time allowed for which the evidence shows that the respondent is not liable.

5. They are inadmissible as showing charges against the respondent, and as evidence of the value of the work sued for, on the ground that there is no evidence showing the authenticity of the job numbers, or any evidence showing the authority of E. L. Putzar as agent of the respondent, to place said job numbers on said time-sheets.

6. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for, because said time-sheets are unintelligible in this, that they do not distinguish between the number of hours actually worked and the number of hours allowed for.

7. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for, because said time-sheets are

(Testimony of Richard W. Curtis.)

unintelligible in this, that they do not properly or at all distinguish between the labor performed under the admitted special contracts, and the labor performed where there were no contracts. We reserve the right to make further objections after we have inspected the time-sheets and compared them with the copies in our possession.

(An adjournment is here taken until to-morrow, Thursday, October 19th, 1911, at 10 A. M.) [1289—1201]

Thursday, October 19th, 1911.

(An adjournment was taken at the request of the libelant until Friday, October 20th, 1911, at 10 A. M.)

Friday, October, 20th, 1911.

(An adjournment was taken at the request of the libelant until Saturday, October 21st, 1911, at 10 A. M.)

Saturday, October 21st, 1911.

(An adjournment was taken at the request of the libelant until Monday, October 23d, 1911, at 10 A. M.)

Monday, October 21st, 1911.

(An adjournment was taken at the request of the libelant until 2 P. M.)

AFTERNOON SESSION.

(An adjournment was taken at the request of the libelant until Tuesday, October 24th, 1911, at 10 A. M.) [1290—1202]

Tuesday, October 24th, 1911.

[Testimony of L. C. Bartmess, for Libelant.]

L. C. BARTMESS, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Bartmess, you are an engineer? A. Yes, sir.

Q. Engaged in what line.

A. I am Superintending Engineer for the Charles Nelson Company and also for Fred Linderman.

Q. And have been that for how long?

A. Nine years.

Q. In your capacity as Superintending Engineer have you had dealings with the different iron works in making repairs in this port? A. Yes, sir.

Q. And as such have become familiar with the price of materials? A. Yes, sir.

Q. In the year 1909 could you tell us what the standard price of cast-iron was in this port?

A. 4 cents a lb.

Q. Cast brass? A. 30 cents.

Q. Cast bronze? A. 35 cents.

Q. Rod-iron? A. 4 cents.

Q. Challenge metal?

A. That is babbitt metal, 45 cents.

Q. Steel plate? A. 4 cents.

Mr. McCLANAHAN.—No questions. [1291—

1203]

**[Testimony of Richard W. Curtis, for Libelant
(Recalled).]**

RICHARD W. CURTIS, direct examination resumed.

Mr. FRANK.—Q. Mr. Curtis, with respect to

(Testimony of Richard W. Curtis.)

Schedule No. 2 attached to the libel, I will ask you whether or not the prices charged for material there were the usual and ordinary prices for such material at this port at that time.

A. Yes, sir, they are.

Q. I notice at the top there one charge of \$120 for Oregon Pine. What can you say as to the nature of that charge?

A. That Oregon Pine we delivered it and charged it at cost to the Matson Navigation Company for the steamer "Hilonian."

Mr. McCLANAHAN.—Where does the schedule show any Oregon Pine, Mr. Frank?

Mr. FRANK.—The first item.

Mr. McCLANAHAN.—Where is the Oregon Pine on there?

Mr. FRANK.—O.P.

Mr. McCLANAHAN.—Q. Mr. Curtis, the "O.P." means Oregon Pine?

A. Yes, sir, the "O.P." means Oregon Pine.

Mr. FRANK.—Q. When you say you charged it at cost, you mean that is what you paid for it yourselves? A. That is what we paid for it.

Q. I see a charge also of 7 lbs. for manganosite. With respect to the amount charged there, is that in the same category?

A. Yes, sir, that is in the same category.

Q. You mean, that is what you paid for it yourselves? A. Yes, sir, just what we paid for it.

Mr. McCLANAHAN.—Does not all that come under an admission that I made?

(Testimony of Richard W. Curtis.)

Mr. FRANK.—I am not sure of that myself, Mr. McClanahan, and that is the reason I asked about it. I thought you withheld the values. [1292—1204]

Mr. McCLANAHAN.—I did not do so. Still, go ahead.

Mr. FRANK.—Q. I notice also 6 one-inch sleeves 6 cents; is that a charge for the whole six?

A. No, sir; that is 6 cents apiece; it should be 36 cents for the six.

Q. Now, with respect to Schedule No. 1, item 131, supplying bitumastic solution, \$328.

Mr. McCLANAHAN.—Is this the schedule that you handed the witness which is attached to the libel?

Mr. FRANK.—No, that is for my guidance. You can always count them down.

A. With regard to this charge for supplying the bitumastic solution I will say that I charged that at cost, or what we paid for it.

Q. That is, you hired somebody to put it on?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir, we hired other parties to put it on.

Mr. FRANK.—Q. Now, with respect to the cable that Mr. Hough spoke of as to whether or not it was rubber, item 110, No. 18 marine port cable.

A. This No. 18 marine port cable was rubber covered waterproof cable. We charged that at cost.

Q. Now, item 121, 73 feet of teak. How was the amount of that arrived at?

(Testimony of Richard W. Curtis.)

Mr. McCLANAHAN.—I object to the question as immaterial.

A. This was the amount of teak that we purchased for that job and it was cut up. There was considerable waste and this is what it cost us.

Mr. McCLANAHAN.—I object to the statement as to what it cost and ask that it be stricken out as immaterial. You have rendered your bill. [1293—1205]

Mr. FRANK.—If you admit the rendering of the bill is proof of the value of the items we have gone to a great deal of unnecessary trouble.

Mr. McCLANAHAN.—I contend you are bound by the items charged in your bill, whether it costs you that or more. It is immaterial what it costs you.

Mr. FRANK.—Q. Item 127, 250 feet of No. 14 R. C. wire. What can you say about the charge for that?

A. This item is also rubber covered waterproof cable, and is charged at cost to us.

Mr. McCLANAHAN.—I object to that as immaterial and ask that it be stricken out.

Q. Mr. Curtis, that is portable wire, is it not?

A. Yes, sir.

Mr. FRANK.—Q. Now, Mr. Curtis, with respect to the classification of the labor on Schedule No. 1, have you gone over the exhibits and cards introduced in evidence and checked up the classifications?

A. I have.

Q. And what, if anything, can you say with re-

(Testimony of Richard W. Curtis.)

spect to the classification as found in Schedule No. 1 being correct?

A. I have checked over the various exhibits in the line of the time-cards and find that the classifications are correct, but there is a variance in the hours.

Q. Due to what?

A. Some of it is due to the fact that we have time charged for various men that morally the time is all right, but when Mr. Frank spoke to these men he decided that their time was not in a condition to be technically proven.

Q. That is the cards? A. The cards.

Q. Well, with the readjusted classification will you give us the number of hours under each classification? A. I cannot offhand. [1294—1206]

Mr. McCLANAHAN.—What is that question? Read it to me, Mr. Reporter. (The Reporter reads the question.) I object to the question upon the ground that the witness has stated that there could be no proof made of the difference of the hours shown on the time-cards and the hours shown on the bill, and for that reason the proof was omitted.

Mr. FRANK.—No. The witness has not testified to that at all. You are very much mistaken.

Mr. McCLANAHAN.—He did, as I understood it.

Mr. FRANK.—Then you misunderstood the testimony. Go on, Mr. Curtis.

A. I cannot call them offhand, but I have a list here, the result of this checking, and I will read it from that.

Q. Do so. A. "Machinists"—

(Testimony of Richard W. Curtis.)

Q. This is shop time? A. Shop time.

Mr. McCLANAHAN.—What is that the witness is reading now?

Mr. FRANK.—A memorandum made by himself from the rechecking of the cards.

Mr. McCLANAHAN.—Wait a moment. I shall have to examine him on it.

Q. Mr. Curtis, you are reading from a memorandum made by yourself? A. Yes, sir.

Q. When was it made?

A. It was made within the last few days, on rechecking the time-cards.

Q. It is a résumé of the time found on the time-cards? A. Yes, sir.

Q. Different from the time charged in the bill?

A. Yes, sir, it is different in the matter of hours. There is a slight difference here and there.

Mr. McCLANAHAN.—I object to it upon the ground that it is an attempt to impeach the bill rendered to the respondent by [1295—1207] the libellant.

Mr. FRANK.—Q. That is a difference due to the facts you have already stated.

Q. Go on.

A. “Machinists, 2842½ hours; machinist and machine, 1583½ hours; machinist and large tool; 980½ hours; helpers.”

Mr. McCLANAHAN.—Q. Machinists’ helpers?

A. Machinists’ helpers. “943½ hours; blacksmith, fire and helper, 181½ hours; foreman, 284 hours; iron workers, 266 hours; rolls, 7 hours.”

(Testimony of Richard W. Curtis.)

Q. What does that mean?

A. It means the roll and the operator.

Mr. FRANK.—Q. Go on.

A. “Counter-sink, punch and shears, 173¾ hours; blacksmith, fire and hammer, 77¾ hours; crane and operator, 63½ hours; planer”—I have not anything for the planer. I cannot distinguish at the present time the workman that worked on the planer, 13 hours, but he is one of the operators that was included in the classification of 173¼ hours, in the counter-sink, punch and shears. “Draughtsman, 51½ hours; bending slab and furnace, 61¾ hours.” That is all.

Q. Running power-house at night. That was Ferro’s? A. That was Ferro’s and Linde’s time.

Q. There is no change in that? A. No, sir.

Mr. FRANK.—Take the witness.

Cross-examination.

Mr. McCLANAHAN.—Q. I want to ask you first, Mr. Curtis, about this portable cable that you testified to this morning. Do you know what that was used for? A. I do not; no.

Q. What is the portable cable usually used for at your work? [1296—1208]

A. It is usually used for making up portable lights, and vessels buy it of us to make up portables.

Q. Do you think this was bought by the “Hilonion”?

Mr. FRANK.—I object to what the witness thinks. It has nothing to do with it.

A. It was bought by the “Hilonian” at that time.

(Testimony of Richard W. Curtis.)

Q. It was? A. So far as I can recall.

Q. And taken by the "Hilonian" away when she sailed from your place?

A. That I don't know. I know that they bought it. I don't know whether they took it away or what they did with it after that.

Q. You don't know whether it came back to the works after use on the ship? A. No, sir.

Q. You don't know that? A. No, sir.

Q. Do you know whether it was used by your own workmen in doing the work on the "Hilonian"?

A. That could not have been because it would not have been charged up to the ship if it were.

Q. You do not know, though?

A. I know this much. At the time the charge was made I know they were going to use it on the ship.

Q. Who was going to use it on the ship?

A. The engineer's department.

Q. And not your employees?

A. Not our employees; no.

Q. And that statement applies to both 315 feet of No. 18 marine portable cable, and 250 feet of No. 14 R. C. wire? A. Yes, sir.

Q. I understand you, Mr. Curtis, that since our last session you have checked up the time-cards that have been introduced here in evidence, and have compared the number of hours shown [1297—1209] by the time-cards with the number of hours charged on Schedule 1 of the bill? A. Yes, sir.

Q. That is not the first time that you have checked up the cards for the purpose of finding out how many

(Testimony of Richard W. Curtis.)

hours were worked on the "Hilonian," is it?

A. I checked up the cards the first time to make up the charge.

Q. And this is the second time that you have checked them up? A. Yes, sir.

Q. What was the purpose of checking them up the second time?

A. The purpose of checking them up the second time was to make sure that I was absolutely right; of course a man is not infallible.

Q. And you found yourself to be wrong, did you?

A. Yes, sir. In some cases there are errors.

Q. Then the bill in that respect is wrong wherein it differs from the checking up that you have testified to this morning?

A. Yes, sir. The bill was never gone over or checked up with anybody interested with the steamer as regards time. That is usually done.

Q. You spoke in your direct examination this morning of certain hours being found on the cards that were morally correct, but could not be proven according to your counsel. Will you please make that a little clearer? What did you mean by that?

A. I mean by that that the men worked on the job but did not keep the time in a clear manner.

Q. You mean that is shown on the cards themselves?

A. No, sir, not those. As a timekeeper I would understand the cards.

Q. I mean this doubt, this cloud as to the time worked by the men, is that shown on the cards?

(Testimony of Richard W. Curtis.)

A. No, sir. [1298—1210]

Q. Then how do you know there is such doubt—from your memory?

Mr. FRANK.—He told you in the direct examination.

Mr. McCLANAHAN.—Let the witness answer.

A. Mr. Frank spoke to the men who made out these cards. It was upon his decision that I withdrew the cards.

Q. How do you know he spoke to them?

A. I had the men here.

Q. You heard him speak to them? A. Yes, sir.

Q. What did he say? On this particular subject?

A. I cannot remember the exact words. We have had so many here.

Q. What did the men say?

A. I don't remember that.

Q. You do not know anything about why it was that Mr. Frank decided he could not prove certain hours of work performed by the men?

A. No, sir. I am not a lawyer.

Q. Did he attempt to tell you?

A. No, sir, he did not explain to me the technical part of it.

Q. And this time which was not capable of proof, according to Mr. Frank, is time that does not appear on the time-cards?

Mr. FRANK.—What do you mean? On the time-cards that are in evidence.

Mr. McCLANAHAN.—On the time-cards that are in evidence.

(Testimony of Richard W. Curtis.)

A. No, sir, it does not appear on the time-cards.

Q. Are there time-cards that are not in evidence pertaining to the "Hilonian" shop work?

A. There are time-cards for some of these men and some of them I have not.

Q. Please answer my question. Are there time-cards pertaining to the shop work on the "Hilonian" that you have not introduced in evidence because of the inability to make proper proof of the time?
[1299—1211]

A. Yes, sir, there are some.

Q. Please produce them. Have you got them here? A. I have not them here at present.

Q. I shall have to ask you to bring them.

Mr. FRANK.—I do not see the materiality of them inasmuch as we have not offered them in evidence and have not introduced them. I do not see why they are material, Mr. McClanahan.

Mr. McCLANAHAN.—The very purpose of injecting into this witness' evidence the fact that you have left our charges, which morally you might make, it seems to me, calls for an investigation. There was no need of injecting it into the case except for some purpose. What is it? Are you going to make the argument that the bill is less than it ought to be?

Mr. FRANK.—I do not see what the cards are going to do for you in that respect.

Mr. McCLANAHAN.—I will ask for the cards.

Q. Mr. Curtis, how long have you been employed by the United Engineering Works?

A. Between 11½ and 12 years.

(Testimony of Richard W. Curtis.)

Q. What is your age now? A. I am 30 now.

Q. So you commenced working for them when you were about 18 years old? A. About that time.

Q. Since then you have become the handyman, as it were—I do not mean it in a bad way?

A. I am Chief Clerk.

Q. The handyman of the concern?

A. I am the Chief Clerk of the concern.

Q. By “Chief Clerk” you perform a great many various duties? A. Yes, sir.

Q. How long have you performed those many duties that you have testified to?

A. I have performed these duties on and off ever since I have been there; I could not give you the exact period. [1300—1212]

Q. Your experience with the United Engineering Company has been as it were a life experience?

A. Yes, sir.

Q. You have done nothing else; is that correct?

A. I worked at various occupations before I went to work with the United Engineering Works.

Q. This was taken up by you and has become your life work? A. Yes, sir, so far.

Q. You are familiar, then, with every detail of the business of the United Engineering Works?

A. Yes, sir.

Q. I understood you to say the other day that you even hired the men? A. No, sir.

Q. You paid the men, is that it?

A. Yes, sir, I paid them.

Q. You have become familiar with the details of

(Testimony of Richard W. Curtis.)

the work done by the United Engineering Works, have you not? A. In what way do you mean?

Q. You know the different parts of a ship and the different machinery in a ship?

A. I do in a general way yes.

Q. I mean in a general way. You are not a mechanic or machinist? A. No, sir.

Q. But you have a practical business knowledge of the work done by your concern?

A. Yes, sir, I have.

Q. So that when the technical mechanical terms are used, you know what they are? A. Yes, sir.

Q. For instance, you know what eccentrics are?

A. Yes, sir.

Q. High and low pressure; intermediate cylinders?

A. Yes, sir.

Q. In other words, when you make out a bill such as you have made out in this case, you are familiar with the items that appear on the bill and know what they are?

A. Yes, sir. To the best of my knowledge I check them up and follow them up. [1301—1213]

Q. Now, in making up Schedule 1 attached to the libel here, the labor charges on that schedule, those charges were made up as far as the shop time is concerned from the time-cards themselves?

A. Yes, sir.

Q. And you had no other guide except the time-cards, to make that up?

A. The time-cards, that is all.

Q. The prices fixed on the schedule after the hours

(Testimony of Richard W. Curtis.)

worked are prices which you considered yourself familiar with at the time the charge was made as being the regular usual market prices for that class of work; is that correct?

A. Yes, sir, they were the usual market prices for that class of work at that time.

Q. And known to be such by you? A. Yes, sir.

Q. And the charges on the main body of the schedule for material, were the charges which you knew at that time to be the reasonable market charges on that day? A. Yes, sir.

Q. You knew that yourself, did you?

Mr. FRANK.—That is the same question.

Mr. McCLANAHAN.—No. One applies to labor and the other to material.

Q. Now, in regard to the ship labor time and found on Schedule 1, you made that up also from the time-cards, did you not?

A. I made them up from the time-cards and the time-sheets.

Q. What do you mean by that, Mr. Curtis?

A. I mean the time-sheets, or the record of the timekeeper of the vessel. That record each day is a settlement between the timekeeper and ourselves as to the day's time. The bill is made up from them.

Q. That is what I want to straighten out. Is the bill made up from the time-sheets or is it made up from the time-cards? [1302—1214]

A. It is made up from the time-sheets after the time-sheets are checked with the time-cards.

(Testimony of Richard W. Curtis.)

Q. Who is it that checks the time-sheets with the time-cards?

A. I check the time-sheets with the time-cards.

Q. And when you checked the time-sheets with the time-cards, did you find the time-sheets to be correct? A. Yes, sir, they were correct.

Q. You found no error? A. No, sir.

Q. When is that checking done?

A. That checking was done each day as soon as all the time-cards were in.

Q. What was the method pursued—actually pursued—by you, in checking up Putzar's time-sheets, and in answering the question I prefer not to have you give me the general method pursued by you, but the actual method pursued in this case?

A. The actual method and the method pursued in every case—

Q. Excuse me. I want you to eliminate every case, but to confine yourself if you can, to the actual method pursued in this case.

Mr. FRANK.—If the actual method pursued in this case is the actual method pursued in every case, where is the distinction?

Mr. McCLANAHAN.—I do not want to discuss it. I want him to confine it to the actual method pursued in this case.

A. The cards were taken and called off and checked one to the other from the sheets; that is, the sheets were taken and counted off, and the cards were checked to the sheets and checked back.

Q. Let me clear that up a little, if I can. In the

(Testimony of Richard W. Curtis.)

first place the sheets are turned in to you by **Mr. Putzar**; is that correct? [1303—1215]

A. Yes, sir.

Q. In the second place you take those sheets and the time-cards, and with somebody else in your office you call back one with the other and verify the sheets in that way?

A. Sometimes I did it with someone else. In the majority of the cases I did it myself. I would take the time-cards and arrange them in the same order they were on the sheets and I checked them off and turned each time-card over as I checked it off on the sheets.

Q. When you did not do it yourself you had someone to assist you?

A. Yes, sir. I was always there. I always handled it personally.

Q. So that you yourself participated in the checking at all times? A. Yes, sir.

Q. About the time of this checking. Do you say it was done daily?

A. It was done daily in most cases. There might have been an exception.

Q. What were the exceptions—do you remember them?

A. I don't remember any, no; it was done you might say nearly every day. There might have been an exception.

Q. You say there might have been an exception. You do not remember any, do you?

A. No, sir, I do not remember any.

(Testimony of Richard W. Curtis.)

Q. You do not remember any exceptions?

A. I do not.

Q. The work, then, of say August 23d, both night and day, was transcribed by Putzar on to a sheet which was furnished to you the next day, August 24th, and checked up by you on that day, August 24th?

A. They were checked up on August 24th, yes.

Q. And the August 24th would be checked up on August 25th, in the same way?

A. Mr. Putzar would get the cards before I [1304—1216] checked the sheets. Mr. Putzar would get the cards of August 23d on that night on August 23d, or the first thing in the morning.

Q. And what would he do with those cards?

A. He would check them up with his handbook; transcribe that time on to the sheets.

Q. When would he do that work?

A. When would he do that work?

Q. Yes.

A. I do not know when he would do it. I got it the following day.

Q. If you don't know don't say. You don't know when he would do it?

A. I don't know what place he would do it.

Q. I am talking about when, not place. Do you know when he would take the time-cards turned over to him by you and check them up with his handbook?

A. I would have the time-sheets in my possession for August 23d on August 24th.

Q. At what time?

(Testimony of Richard W. Curtis.)

A. I could not tell you the exact time.

Q. When would Mr. Putzar be placed in possession of the time-cards for August 23d?

A. Mr. Putzar would be placed in possession of them the first thing in the morning.

Q. Of August 24th?

Q. What do you mean by "the first thing in the morning"?

A. I mean right after the timekeeper arrives; after he is through with the men in the runway. Presumably that would be about 9 or 10 o'clock.

Q. So that Mr. Putzar would be placed in possession of the cards just as soon as possible the next morning?

A. He would be put in possession of the cards as soon as possible, yes. [1305—1217]

Q. After the timekeeper had—

A. After they had been thoroughly checked over.

Q. By whom?

A. By myself and the timekeeper. I could not give you the exact hour that we turned over the cards; that I cannot recall.

Q. We will get at it. On the morning of August 24th, the first thing done with the cards would be for you to check them over with the timekeeper; is that it? A. Yes, sir.

Q. What did that checking over consist of?

A. First, they would be checked over as regards the clock cards, as to whether the man worked on that date. Then they would be checked over as regards the job numbers.

(Testimony of Richard W. Curtis.)

Q. Then what. Is that all?

A. Then they would be turned over to Mr. Putzar.

Q. I am talking about the checking. Is that all the checking that was done?

A. That would be the checking.

Q. That is, you would take the clock cards and the time-cards and compare them to see that the hours worked were the same on both?

A. That the man had worked for that day.

Q. Had worked for that day? A. Yes, sir.

Q. That is, that he was personally present as shown by the clock cards? A. Yes, sir.

Q. That would be all the checking of the clock cards; is that it?

A. Yes, sir, the hours on the cards would not be the same as the hours punched on by the clock.

Q. I understand that.

A. We checked that the man worked a full day.

Q. That is all you did? You found that the man did actually work on that day, by the clock cards?

A. Yes, sir.

Q. Now, the checking as to the job number, when did you do that? [1306—1218]

A. That would be done from these sheets of lists of work.

Q. In your possession? A. Yes, sir.

Q. How many men were there in the United Engineering Works in August and September, 1909?

A. I could not recall that. That is two years ago.

Q. Give us an approximate idea—two or 300?

A. Yes, sir.

(Testimony of Richard W. Curtis.)

Q. Would there be more than 300?

A. There might have been.

Q. 300 or 400?

A. We hire and lay them off. Probably we would have a force of 25 more on one day than another and lay them off.

Q. What was your normal number of men regularly employed at that time?

A. I have never figured that out.

Q. You do not know how many men were ordinarily employed in the shop?

A. No, sir; it varies so.

Q. It runs between three and 400?

A. No, sir; I could not say as to that. I never stopped to figure that out.

Q. You are sure it would be between two and 300?

A. It would be at least 200.

Q. You take these 200 odd time-cards and compared each one of them with the lists of work to see that the job numbers on them were correct, is that the idea? A. Yes, sir.

Q. In this work you were assisted by whom?

A. By the timekeeper.

Q. What would he do?

A. The timekeeper would act as a clerk.

Q. He did not know anything about the lists of work, did he, and the correctness of the job numbers?

A. The timekeeper knew regarding the general line of work that was going on in the yard as well as myself.

Q. And these corrections which we find on a good

(Testimony of Richard W. Curtis.)

many of the [1307—1219] cards in red ink over the job numbers are corrections which you instigated? A. I instigated it; yes.

Q. And oftentimes, in fact every time you changed one of those cards you visited the man, did you not, and investigated the question of the propriety of the change?

A. I visited the man and investigated, or called the man in. If I had a great many of them I would call the man in, or call his foreman in.

Q. And the conference would result in the change, is that it?

A. Yes, sir. We would very often go out and look at the part or piece he was working on.

Q. Then when the cards are thus daily checked by you, in the morning they are turned over to Mr. Putzar? A. Yes, sir.

Q. Who would be the custodian of the cards from you to Mr. Putzar?

A. I handed the cards over to Mr. Putzar at times. The time-keeper handed them over at times. He would call at the office for them.

Q. Where was this checking done?

A. In the office of the United Engineering Works.

Q. Whereabouts?

A. In the back room; that is, in the main clerk's room of the United Engineering Works.

Q. On this side or the other side?

A. The other side.

Q. Is that where your headquarters are?

(Testimony of Richard W. Curtis.)

A. No, sir; my headquarters are on both sides of the bay.

Q. Your headquarters are on both sides of the bay?

A. Yes, sir; I visit both sides.

Q. In the morning you are on the other side?

A. In the morning I go over there.

Q. Always?

A. Not always; not the first thing in the morning; it depends on conditions. [1308—1220]

Q. When you do not go over in the morning, who does the checking of the cards over there?

A. I go over in the morning, but not at all times go over the first thing in the morning; what I mean by the first thing is, I arrive at 7 o'clock in the morning.

Q. Sometimes you arrive there later?

A. Not very often; but very seldom. I cannot recall the exact dates I arrived there later, but my hours are from 7 in the morning.

Q. But you go over there every morning?

A. I go over there every morning.

Q. For the purpose of checking up these cards?

A. Well, as near as I can recall, yes. That is what I mean, I might have arrived over there in the afternoon; it depends upon the business conditions, I could not give you the exact hour that I did arrive at the works during that time, not the exact date, nor the hour.

Q. And if you did arrive in the afternoon Mr. Putzar would get the cards later?

A. Mr. Putzar would get the cards later.

(Testimony of Richard W. Curtis.)

Q. But he would always get them on the day following the day on which the work was done?

A. Yes.

Q. Now, we have been talking about ship cards, have we not? A. Ship cards we are talking about.

Q. Did you at any time go on the ship to make these corrections in the cards?

A. I did at various times; yes.

Q. Did you ever see Mr. Putzar handling the ship time-cards in connection with his handbook?

A. Yes, I did.

Q. What was he doing?

A. The cards were turned over to him, and the time that I saw him checking over his handbook he had his handbook open on the desk and had got the cards in two piles that had been turned over at the time I was there.

Q. You don't know what he was doing?

A. He said that he was [1309—1221] checking them off with this handbook.

Q. Where was this?

A. This was once on board of the ship.

Q. Just once?

A. Yes. The reason why I say once is this, because I asked him what he was doing at the time.

Q. You seem to have a distinct recollection of that time, do you?

A. I have, yes, as it is a general custom for all timekeepers to have a handbook.

Q. Well, I am speaking now of your distinct recollection of having seen Mr. Putzar with his handbook

(Testimony of Richard W. Curtis.)

checking over time-cards? A. Yes.

Q. You have a distinct recollection of seeing him that once? A. Yes, sir.

Q. When was that, Mr. Curtis?

A. I can't recall the date.

Q. The early part of the work?

A. I could not say that.

Q. Where was that?

A. It was over at the United Engineering Works yard.

Q. But he was checking over the cards with his handbook? A. On board the ship.

Q. On board the ship? A. Yes.

Q. Whereabouts on board of ship?

A. I could not say as to that.

Q. You have no recollection?

A. No, I don't remember in what room he was or where he was.

Q. Was he in a room? A. I don't remember.

Q. That is rather strange, isn't it—you can recollect the fact of his doing that and cannot recollect whether he was in a room or not?

A. That is not strange, because a timekeeper in handing in the time-cards to enter, the timekeeper, as a general rule, inquires as to the manner in which he is keeping a check on him. [1310—1222]

Q. So then this was probably during the first part of the work, was it not?

A. It might have been; yes.

Q. It is probable, is it not?

A. It is probable it was.

(Testimony of Richard W. Curtis.)

Q. You went to see how he was keeping his time?

A. Certainly, yes.

Q. Do you remember distinctly making inquiry of him? A. I do, yes.

Q. On this occasion? A. I always do.

Q. I am speaking of this occasion when you were on the ship and saw him checking over the time with his handbook; do you remember making inquiry of him then?

A. I asked him what he was doing, how he was keeping a check on it.

Q. You recollect that, do you? A. Yes.

Q. What did he say?

A. He said that he was checking up the cards with his handbook.

Q. What else followed? A. Nothing else.

Q. Had you not at that time furnished him with a printed time-book?

A. Furnished him with a printed time-book?

Q. Yes.

A. Not to my knowledge—furnished him with a printed time-book?

Q. You know he had a printed time-book?

A. I know he had a handbook; where he got it, I don't know.

Q. Excuse me, I am referring to a printed time-book.

Mr. FRANK.—What do you mean by a printed time-book? Do you mean the lists of sheets?

Mr. McCLANAHAN.—Let the witness answer.

(Testimony of Richard W. Curtis.)

Q. Don't you know what I mean by a printed time-book?

A. No, I don't know what you mean by a printed time-book.

Q. Don't you know, Mr. Curtis, that the sheets which you have introduced in evidence here, the time-sheets of Mr. Putzar, were [1311—1223] taken from a printed time-book?

A. I just saw the time-book, the outside of that time-book. I did not inquire into the time-book, or how it was made, or anything else.

Mr. FRANK.—He is speaking of the sheets. The witness does not understand you.

Mr. McCLANAHAN.—I will make it perfectly clear. I am fair with the witness.

Mr. FRANK.—He means the time-sheets.

Mr. McCLANAHAN.—Q. You know that there was a printed time-book furnished to Mr. Putzar, do you not?

A. I do not understand what you mean by the printed time-book.

Q. Well, do you know that the sheets which you have introduced in evidence here in this case and marked your Exhibit No. 3 are sheets taken from a printed time-book?

A. Oh, yes, now I understand you; yes,

Q. I could not see why you did not understand.

Mr. FRANK.—He had his mind on Mr. Putzar's handbook.

Mr. McCLANAHAN.—Q. Just take your mind off of that for a moment. A. All right.

(Testimony of Richard W. Curtis.)

Q. You know, then, that Mr. Putzar had in his possession at that time a printed time-book?

A. Yes, sir.

Q. Did you not? A. Yes.

Q. You furnished him with that, did you not?

A. No.

Q. Where did he get it? A. I don't know.

Q. Did you ask him about this printed time-book at this occasion when you spoke to him about keeping time? A. I did not; no.

Q. Did you know at that time that he had the printed time-book?

A. I knew that he had because he said that he would transcribe the time on a time-book which he had, which would be more convenient. [1312—1224]

Q. So that this interview, from your last statement, must have been at the inception of the work, because you had not received from him at that time any of the sheets?

A. It must have been, yes—it must have been.

Q. You, then, at the inception of the work, Mr. Curtis, with your refreshed memory now, did inquire of Mr. Putzar how he was going to keep the time, and you found him at that time checking over with his handbook the time-cards? A. Yes.

Q. He told you what?

A. He told me that he was going to transcribe them on a form which he had, which would be more convenient, a form of time-book.

Q. He was going to transcribe the cards?

A. Yes.



